TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1890.

No. 1219.

THE UNITED STATES, APPELLANT,

VS.

THE OREGON CENTRAL MILITARY ROAD COMPANY, B. J. PENGRA, C. E. PENGRA, G. W. COLBY, ET AL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF OREGON.

FILED JULY 14, 1890.

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INDEX.

	Original.	Print.
Citation and service	1	1
Citation and service	2	1
Bill of complaint	4	2
Exhibit A. List No. 1 of lands "in place" granted to the State of Oregon by the act of Congress approved July 2, 1864, to aid in the construction of a military road from Eugene City to the eastern boundary of said State	14	12
Exhibit B. List No. 2 of lands "in place" granted to the State of Oregon by the acts of Congress approved July 2, 1864, and March 3, 1869, to aid in the construction of a military road from Eugene City to the eastern boundary of said State	20	14
Exhibit C. List No. 4 of lands "in place" granted to the State of Oregon by the acts of Congress approved July 2, 1864, and March 3, 1869, to aid in the construction of a military road from Eugene City to the eastern boundary of said State	35	19
Exhibit D. List No. 6 of lands "in place" granted to the State of Oregon by acts of Congress approved July 2, 1864, and March 3, 1869, to aid in the construction of a military road from Eugene City to the eastern boundary of said State	48	23
Exhibit E. List No. 3, embracing indemnity lands granted to the State of Oregon by the acts of Congress approved July 2, 1864, December 26, 1866, and March 3, 1869, to aid in the construction of a military road from Eugene City to the eastern boundary of said State	53	25

	Original.	Print.
Exhibit F. List No. 5, embracing indemnity lands granted to the State of Oregon by the acts of Congress approved July 2, 1864, December 26, 1866, and March 3, 1869, to aid in the construction of a military road from Eugene City to the eastern boundary of said State	59	27
Exhibit G. List No. 7, embracing indemnity lands granted to the State of Oregon by the acts of Congress approved July 2, 1864, December 26, 1866, and March 3, 1869, to aid in the construction of a military road from Eugene City to the eastern boundary of said State	63	29
Exhibit H. Patent to the Oregon Central Military Wagon Road Company, July 15, 1884	67	30
Exhibit I. Patent to the Oregon Central Military Wagon Road Company, July 10, 1883	70	32
Exhibit J. Deed between the Oregon Central Military Wagon Road Company and B. J. Pengra, May 12, 1874	79	36
Exhibit K. Deed between the Oregon Central Military Wagon Road Company and B. J. Pengra, October 12, 1874	86	40
Exhibit L. Deed between B. J. Pengra and G. W. Colby *et al.*, May 15, 1874	90	42
Exhibit M. Deed between B. J. Pengra and G. W. Colby *et al.*, October 15, 1874	95	45
Exhibit N. Deed between G. W. Colby *et al.* and the California and Oregon Land Company	98	46
Marshal's returns on subpœna	108	51
Subpœna	111	52
Præcipe for appearance for defendants	113	53
Petition for leave to file double pleas	115	54
Exceptions of Rideout *et al.* to bill	118	54
Order granting leave to file double pleas and sustaining exceptions	120	55
Plea and answer of California and Oregon Land Company	122	56
Answer of California and Oregon Land Company	131	60
Decree dismissing bill	146	67
Opinion	148	67
Order granting appeal	150	68
Clerk's certificate	151	68

1 UNITED STATES OF AMERICA,
District of Oregon, ss:

To The Oregon Central Military Road Company, B. J. Pengra, C. E. Pengra, G. W. Colby, John Boggs, N. D. Rideout, W. H. Parks, R. F. Parks, Edgar Mills, E. B. Pond, Nicholas Lunning, W. C. Belcher, F. B. Simpson, J. W. Peck, Isaac Allen, B. F. Baker, M. P. Jones, D. H. Holbrook, Isaac Lohman, A. D. Breed, and The California and Oregon Land Company, greeting:

Whereas the United States has lately appealed to the Supreme Court of the United States from a decree rendered in the circuit court of the United States for the district of Oregon, in your favor, and has given the security required by law, you are, therefore, hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the second Monday of October, A. D. eighteen hundred and ninety, to show cause, if any there be, why the said decree should not be corrected, and speedy justice should not be done to the parties in that behalf.

Given under my hand at Portland, in said district, this June 4, 1890.

DEADY, *J.*

DISTRICT OF OREGON, *ss:*

Due service of the foregoing citation on appeal is hereby accepted and admitted at Portland, Oregon, June 5, 1890.

DOLPH, BELLINGER, MALLORY & SIMON,
Attorneys for Defendants.

Filed June 5, 1890. R. H. Lamson, clerk.

2 UNITED STATES OF AMERICA,
District of Oregon, ss:

To The Oregon Central Military Road Company, B. J. Pengra, C. E. Pengra, G. W. Colby, John Boggs, N. D. Rideout, W. H. Parks, R. F. Parks, Edgar Mills, E. B. Pond, Nicholas Lunning, W. C. Belcher, F. B. Simpson, J. W. Peck, Isaac Allen, B. F. Baker, M. P. Jones, D. H. Holbrook, Isaac Lohman, A. D. Breed, and The California and Oregon Land Company, greeting:

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Given under my hand at Portland, in said district, this June 4, 1890.

(Signed) DEADY, *J.*

DISTRICT OF OREGON, *ss:*

Due service of the foregoing citation on appeal is hereby accepted and admitted at Portland, Oregon, June 5, 1890.

DOLPH, BELLINGER, MALLORY & SIMON,
Attorneys for Defendants.

(Endorsed:) Filed June 5, 1890. R. H. Lamson, clerk.

3 In the circuit court of the United States for the district of Oregon, April term, 1889.

Be it remembered, that on the 30th day of August, 1889, there was duly filed in the circuit court of the United States for the district of Oregon, a bill of complaint, in words and figures as follows, to wit:

4 In the circuit court of the United States for the district of Oregon.

To the honorable the judges of the circuit court of the United States for the district of Oregon:

Comes now your orator, W. H. H. Miller, the Attorney-General of the United States of America, and in virtue of the provisions of an act of the Congress of the United States entitled "An act providing in certain cases for the forfeiture of wagon-road grants in the State of Oregon," approved March 2, 1889, exhibits and presents this bill of complaint in behalf of the United States and against The Oregon Central Military Road Company, B. J. Pengra, C. E. Pengra, G. W. Colby, John Boggs, N. D. Rideout, W. H. Parks, R. F. Parks, Edgar Mills, E. B. Pond, Nicholas Lunning, W. C. Belcher, F. B. Simpson, J. W. Peck, Isaac Allen, B. F. Baker, M. P. Jones, D. H. Holbrook, Isaac Lohman, A. D. Breed, and The California and Oregon Land Company.

5 I. And thereupon your orator shows to your honors that on the 2d day of July, A. D. 1864, the Congress of the United States passed and the President duly approved an act granting to the State of Oregon, to aid in the construction of a wagon road from Eugene City, by way of middle fork of Willamette River and the most feasable pass in Cascade range of mountains, near Diamond Peak to the eastern boundary of the State, the alternate sections of public land, designated by odd numbers to the extent of three sections on each side of said road; that said act provided that the lands granted should be exclusively applied to the construction of the road and to no other purpose; that they should be disposed of only as fast as the work upon the road progressed; that lands lying within the limit fixed by said act and theretofore reserved or appropriated should be reserved from the operation of said act, except so far as it might be necessary to locate the road over the same, in which case a right of way to the width of one hundred feet was granted; that the land granted thereby to the State of Oregon should be disposed of by the legislature thereof for the uses and purposes therein set forth and for no other purposes; that the road should be and remain a public highway for the use of the United States, free from toll or other charges, upon the transportation of any property, troops, or mails of the United States, and also that the road should be constructed with such width, gradation, and bridges as to permit of its regular use as a wagon road and in such other special manner as the State of Oregon might prescribe. That said act further provided that the lands thereby granted to the State of Oregon should be disposed of only in the following manner, that is to say: That a quantity of land not exceeding thirty sections might be sold, and when the governor of the State should certify to the Secretary of the Interior that ten coterminus miles of said road were completed, then another quantity of land granted by the act, not exceeding thirty sections, might be sold,

and so on from time to time until said road should be completed, and if the road was not completed within five years, no further sales should be made and the lands remaining unsold should revert to the United States.

II. And your orator further shows to your honors that on the 24th day of October, A. D. 1864, the legislative assembly of the State of Oregon passed, and the governor approved, an act entitled "An act donating certain lands to Oregon Central Military Road Company," which act, after referring to the act of Congress aforesaid, granted to Oregon Central Military Road Company all lands, rights of way, rights, privileges, and immunities granted or pledged to the State of Oregon by said act of Congress, aforesaid, for the purpose of aiding said Oregon Central Military Road Company in constructing the road mentioned and described in said act of Congress aforesaid, and upon the conditions and immunities therein prescribed; and, further, that the said act of the said legislative assembly granted and pledged to the said Oregon Central Military Road Company all moneys, lands, rights, privileges, and immunities which might thereafter be granted to the State of Oregon to aid in the construction of said road, for the purposes and upon the conditions mentioned in said act of Congress, or which might be mentioned in any further grant of money or land to aid in constructing said road; that on the 26th day of December, 1866, the Congress of the United States passed and the President approved an act amending the act of Congress aforesaid, and granting to the State, for the purpose set forth in said act aforesaid, such odd sections or parts of odd sections, not reserved or otherwise legally appropriated, within six miles on each side of said road to be selected by the surveyor-general of the State of Oregon, as should be sufficient to supply any deficiency in the quantity of said grant as prescribed in said act of Congress aforesaid, occasioned by any lands sold or reserved or to which the rights of pre-emption or homestead had attached, or which for any reason might not be subject to the said grant within the limits designated in said act of Congress aforesaid.

6 III. And your orator further shows to your honors that the State of Oregon never at any time passed any laws whatsoever for the special purpose of carrying the act of Congress aforesaid into effect, but long before the passage and approval of said act of Congress and on the 14th day of October, A. D. 1862, the legislative assembly of the State of Oregon passed an act entitled "An act providing for private incorporations and the appropriation of private property therefor," which was approved by the governor of Oregon on said day last aforesaid, which act provided, among other things, that any road, other than a railway, constructed by a corporation formed under the said law, should be cleared of standing timber for thirty feet in width, that said road should have a track in the center not less than sixteen feet in width finished and kept in good traveling condition except when the cut of said road is six feet or more deep on either side, in which case said road need not be more than ten feet wide, with turnouts of sixteen feet in width for every quarter of a mile of said narrow track. And said act of the legislative assembly of Oregon last aforesaid also provided that all streams or other waters upon the line of such roads should be safely and securely bridged, except where the county court of the county wherein the line of such road may cross such streams, or other water, or if such stream or other water form the boundary between two counties, then the county court of either of said

counties might authorize the corporation to place a ferry-boat upon such stream or other water, to be kept and run for such toll as the county court might prescribe, and in the manner required of ferries established under the general statutes in relation to ferries; or except where such county court might authorize such corporation to connect their road with a ferry, at the date of said act or thereafter established over such stream or other water under the general statutes in relation to ferries, and that said provisions of said act of the legislative assembly of the State of Oregon last aforesaid have been in force at all times since the 14th day of October, 1862, and still remain in force.

IV. And your orator further shows to your honors that the Oregon Central Military Road Company is a private corporation purporting to have been incorporated on the 15th day of April, A. D. 1864, under and by virtue of the general laws of the State of Oregon providing for private incorporations and the appropriation of private property therefor. That the enterprise and business in which the said corporation proposed to engage was the location, construction, and operation of a road suitable for the use of pack trains, wagons, and other conveyances from Eugene City, Oregon, in a southeasterly direction to the southeastern corner of the State of Oregon by way of the middle fork of the Willamette River.

V. And your orator further shows to your honors that on the 27th day of July, 1866, the officers, stockholders, and agents of the Oregon Central Military Road Company and other persons, acting in their interest and in the interest of said company, falsely and fraudulently represented to Addison C. Gibbs, then the governor of Oregon, that said road had been constructed for fifty miles from Eugene City, eastward, as by law required; they, the said officers, stockholders, agents, and representatives and other persons aforesaid, then and there well knowing that said representations were false and that the said road had not been constructed in any respect according to law or at all; that they and each of them made the said false and fraudulent representation for the sole and only purpose of fraudulently procuring from the said Addison C. Gibbs, as governor of the State of Oregon, a certificate declaring that the said road had been constructed in accordance with the act of Congress aforesaid, approved July 2d, 1864, and of the act of the legislative assembly aforesaid, approved October 24, 1864.

That the said Addison C. Gibbs, then governor of Oregon, in consequence of said false and fraudulent representations made as aforesaid by the persons aforesaid, made and issued the following certificate:

7 STATE OF OREGON, EXECUTIVE DEPARTMENT,
Salem, July 27, 1866.

SIR: I hereby certify that in accordance with an act of Congress approved July 2d, 1864, entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the southern or eastern boundary of said State," and in accordance with the act of the legislative assembly of the State of Oregon, approved October 24th, 1864, entitled "An act donating certain lands to the Oregon Central Military Road Company," I have passed over and carefully examined the first 50 miles of the Oregon Central Military Road Company, beginning at Eugene City and extending eastward and towards the southern or eastern boundary of the State of Oregon.

And I further certify that the first continuous 50 miles of said road, beginning at Eugene City, are completed in accordance with the requirements of said act of Congress and the laws of Oregon.

In witness whereof I have hereunto set my hand and caused the said seal of the State of Oregon to be affixed.

ADDISON C. GIBBS,
Governor of Oregon.

By the governor:
[SEAL.]
SAMUEL E. MAY,
Secretary of State.

The SECRETARY OF THE INTERIOR.

VI. And your orator further shows to your honors that it was not and is not true that the Oregon Central Military Road Company had at any time whatsoever constructed, or caused to be constructed, the fifty miles of road referred to in the said certificate, and that in order to procure the said certificate and to use the same to secure the possession and control of the lands within the limits of the grant provided for in the act of Congress first hereinbefore pleaded, the said company, by its officers, agents, and representatives, fraudulently pointed out to the said Addison C. Gibbs, governor aforesaid, a county road, to which said company never at any time had any legal right whatsoever, and led the said governor to believe that said road was owned and had been constructed by said company under and by virtue of the acts of Congress and of the legislative assembly of Oregon aforesaid, and the said certificate was fraudulently and inequitably obtained.

VII. And your orator further shows to your honors that on the 26th day of November, A. D. 1867, the officers, stockholders, and agents of the Oregon Central Military Road Company, and other persons acting in the interests thereof, falsely and fraudulently represented to George L. Woods, then the governor of Oregon, that forty-two and one-half additional miles of said road had been constructed as by law required; they, the said officers, stockholders, agents, and representatives, and other persons aforesaid, then and there well knowing that said representations were false, and that the said road had not been constructed in any respect according to law or at all; that they and each of them made the said false and fraudulent representation for the sole and only purpose of fraudulently procuring from the said George L. Woods, as governor of the State of Oregon, a certificate declaring that the said road had been constructed in accordance with the act of Congress aforesaid, approved July 2d, 1864, and the act of the legislative assembly aforesaid, approved October 24th, 1864.

That the said George L. Woods, then governor of Oregon, in consequence of said false and fraudulent representations made as aforesaid by the persons aforesaid, made and issued the following certificate:

8 STATE OF OREGON, EXECUTIVE OFFICE,
Salem, November 26, 1867.

To all to whom these presents shall come, greeting:

This certifies that the section of the Central Military Road extending from the point to which it has already been approved to Crescent Lake, in the valley of the Deschutes, being 42½ miles, more or less, having been carefully inspected and found to be well and faithfully built and fully up to the requirements of the law, therefore the same is approved and received.

In witness whereof I have hereunto signed my name, and caused the seal of the State of Oregon to be affixed, the day and the year first above written.

GEO. L. WOODS.

Attest.
[SEAL.]

SAMUEL E. MAY,
Secretary of State.

VIII. And your orator further shows to your honors that it was not and is not true that the Oregon Central Military Road Company had at any time whatsoever constructed or caused to be constructed said forty-two and one-half miles of road, and this the said George L. Woods, governor aforesaid, then and there well knew, and that it was not and is not true that a careful or any inspection of any road constructed or owned by the Oregon Central Military Road Company had been made by the authority of the said governor.

IX. And your orator further shows to your honors that said certificate was procured by the said Oregon Central Military Road Company by and through the false and fraudulent representations aforesaid by the officers, stockholders, agents, and persons aforesaid, in order to enable it falsely and fraudulently to obtain possession and control of the lands lying within the limits of the grant of land provided for in the act of Congress aforesaid, and coterminous with said forty-two and one-half miles, and that the acceptance of said pretended road by the governor aforesaid was a fraud upon the United States of America.

X. And your orator further shows to your honors that on the 12th day or January, A. D. 1870, the officers, stockholders, and agents of the Oregon Central Military Road Company and other persons, acting in their interest and in the interest of said company, falsely and fraudulently represented to George L. Woods, then the governor of Oregon, that said road had been constructed as by law required, and presented a map falsely showing the same and the route thereof, they, the said officers, stockholders, agents, and representatives and other persons aforesaid, then and there well knowing that said representations were false and that the said road had not been constructed in any respect according to law or at all; that they and each of them made the said false and fraudulent representation for the sole and only purpose of fraudulently procuring from the said George L. Woods, as governor of the State of Oregon, a certificate declaring that the said road had been constructed in accordance with the act of Congress aforesaid, approved July 2d, 1864, and of the act of the legislative assembly aforesaid, approved October 24th, A. D. 1864.

That the said George L. Woods, then governor of Oregon, in consequence of said false and fraudulent representations made as aforesaid by the person aforesaid, made and issued the following certificate:

9 STATE OF OREGON:

I, George L. Woods, governor of the State of Oregon, do hereby certify that this plat or map of the Oregon central military road has been duly filed in my office by the said Oregon Central Military Road

Company, and shows that portion of the said road commencing at Eugene City, Oregon, and ending at the eastern boundary of the State, which has been completed as required by the act of Congress approved July 2, 1864, entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State," and the act of the legislative assembly of the State of Oregon, approved October 24th, 1864, entitled "An act donating certain lands to the Oregon Central Military Road Company," granting lands to said company.

In testimony whereof I have hereunto set my hand and caused the great seal of the State to be affixed.

Done at Salem on this the 12th day of January, A. D. 1870.

GEO. L. WOODS,
Governor.

By the governor:
[SEAL.]

SAMUEL E. MAY,
Secretary of State.

XI. And your orator further shows to your honors that it was not and is not true that the Oregon Central Military Road Company had at any time whatsoever constructed, or caused to be constructed, a road upon any line of route located or surveyed by said company or by any other corporation, person, or persons, anywhere within the limits of the grant of land provided for in the act of Congress aforesaid, or at all, and this the said George L. Woods, governor aforesaid, then and there well knew, and that it was not and is not true that the said governor made or caused to be made a careful, or any, examination of any road constructed or owned by the Oregon Central Military Road Company.

XII. And your orator further shows to your honors that all of said certificates were procured by the said Oregon Central Military Road Company by and through the false and fraudulent representations aforesaid by the officers, stockholders, agents, and persons aforesaid in order to enable it falsely and fraudulently to obtain possession and control of the lands lying within the limits of the grant of land provided for in the act of Congress aforesaid, and that the acceptance of said pretended road by the governor and the acting governor aforesaid was a fraud upon the United States of America.

XIII. And your orator further shows to your honors that the said road never was built, graded, bridged, cleared, or constructed, either in whole or in part, so as to be a public highway, or so as to permit of the transportation of any property, troops, or mails of the United States over the same, and was not and never has been maintained as a public highway by either or any of the defendants herein, or any person or persons claiming any interest in the lands embraced within the limits provided for by the said act of Congress.

XIV. And your orator further shows to your honors that notwithstanding the provisions of the act of Congress declaring that the lands granted thereby should be exclusively applied to the construction of the road, and to no other purpose, neither the said lands nor the proceeds thereof have ever been exclusively, or at all, applied to the construction of the road, or any part thereof, or to the construction of any bridges thereon, or the establishment of any ferries on any streams along the line of the road or any part thereof.

10 XV. And your orator further shows to your honors that the lands granted by the said act of Congress were not and have not been disposed of by the State of Oregon, or by the legislative assembly thereof, for the purposes expressed in said act of Congress or any thereof.

XVI. And your orator further shows to your honors that on the eighteenth day of June, A. D. 1874, the Congress of the United States passed and the President duly approved an act which, after reciting that certain lands had theretofore by acts of Congress been granted to the State of Oregon, to aid in the construction of certain military wagon roads in said State, and that there was no existing law providing for the issuing of formal patents for said lands, provided as follows:

"That in all cases when the roads, in aid of the construction of which said lands were granted, are shown by the certificate of the governer of the State of Oregon, as in said acts provided, to have been constructed and completed, patents for said lands shall issue in due form to the State of Oregon as fast as the same shall, under said grants, be selected and certified, unless the State of Oregon shall, by public act, have transferred its interests in said lands to any corporation or corporations, in which case the patents shall issue from the General Land Office to such corporation or corporations upon the payment of the necessary expenses thereof: *Provided*, That this shall not be construed to revive any land grant already expired, nor to create any new rights of any kind, except to provide for issuing patents for lands to which the State is already entitled."

XVII. And your orator further shows to your honors that on the 13th day of November, of 1867, the Secretary of the Interior Department and the Commissioner of the General Land Office of the United States, being deceived, misled, and imposed upon by the false and fraudulent certificates hereinabove set forth, executed and delivered to the State of Oregon, for the benefit of said road, a certified list of land which the said defendants claim has the force and effect of a patent duly issued by the United States, which list so certified contained a description of $19,153\frac{23}{100}$ acres of land intended to be granted by said acts of Congress.

That on the 21st day of April, 1871, the Secretary of the Interior Department and the Commissioner of the General Land Office of the United States, being deceived, misled, and imposed upon by the false and fraudulent certificates hereinabove set forth, executed and delivered to the State of Oregon, for the benefit of said road, a certified list of land which the said defendants claim has the force and effect of a patent duly issued by the United States, which list so certified contained a description of $167,635\frac{57}{100}$ acres of land intended to be granted by said acts of Congress.

That on the 8th day of December, 1871, the Secretary of the Interior Department and the Commissioner of the General Land Office, of the United States, being deceived, misled, and imposed upon by the false and fraudulent certificates hereinabove set forth, executed and delivered to the State of Oregon, for the benefit of said road, a certified list of land which the said defendants claim has the force and effect of a patent duly issued by the United States, which list so certified contained a description of $113,504\frac{91}{100}$ acres of land intended to be granted by said acts of Congress.

That on the 2d day of April, 1873, the Secretary of the Interior Department and the Commissioner of the General Land Office of the United States, being deceived, misled, and imposed upon by the false and fraudulent certificates hereinabove set forth, executed and delivered to the State of Oregon, for the benefit of said road, a certified list of land which the said defendants claim has the force and effect of a patent duly issued 11 by the United States, which list so certified contained a description of $23,458\frac{48}{100}$ acres of land intended to be granted by the said acts of Congress.

That on the 21st day of April, 1871, the Secretary of the Interior Department and the Commissioner of the General Land Office of the United States, being deceived, misled, and imposed upon by the false and fraudulent certificates hereinabove set forth, executed and delivered to the State of Oregon, for the benefit of said road, a certified list of land which said defendants claim has the force and effect of a patent duly issued by the United States, which list so certified contained a description of $23,475\frac{66}{100}$ acres of land intended to be granted by said acts of Congress.

That on the 8th day of December, 1871, the Secretary of the Interior Department and the Commissioner of the General Land Office of the United States, being deceived, misled, and imposed upon by the false and fraudulent certificates hereinabove set forth, executed and delivered to the State of Oregon, for the benefit of said road, another certified list of land which said defendants claim has the force and effect of a patent duly issued by the United States, which list so certified contained a description of $9,641\frac{14}{100}$ acres of land intended to be granted by said acts of Congress.

That on the 2d day of April, 1873, the Secretary of the Interior Department and the Commissioner of the General Land Office of the United States, being deceived, misled, and imposed upon by the false and fraudulent certificates hereinabove set forth, executed and delivered to the State of Oregon, for the benefit of said road, another certified list of land which said defendants claim has the force and effect of a patent duly issued by the United States, which list so certified contained a description of $4,459\frac{94}{100}$ acres of land intended to be granted by said acts of Congress.

Copies of said lists of land so certified are hereto attached and marked Exhibits A, B, C, D, E, F, and G, and made part of this bill of complaint.

That thereafter the President of the United States, being deceived, misled, and imposed upon by the false and fraudulent certificates hereinabove set forth, issued to the defendant, the Oregon Central Military Road Company, two patents for $40,913\frac{24}{100}$ acres of land included in the grants made or intended to be made by said acts of Congress, copies of which patent or patents are hereto annexed, marked Exhibits H and I, and made a part of this bill of complaint.

XVIII. And your orator further shows to your honors, that on the 12th day of May, A. D. 1874, the Oregon Central Military Road Company, by its then president, Theodore Wygant, and its then secretary, John M. Drake, made, executed, and delivered to B. J. Pengra a deed, a certified copy of which is hereunto attached, marked Exhibit J, and made a part hereof; and that said deed was filed for record in the office of the county clerk of Lane County, Oregon, on May 14, 1874, and recorded in record of deeds for Lane County, Oregon, in volume J, on pages 264, 265, 266.

That on the 12th day of October, A. D. 1874, the Oregon Central Military Road Company, by its then president, Theodore Wygant, and its then secretary, John M. Drake, made, executed, and delivered to B. J. Pengra a second deed, a certified copy of which is hereunto attached, marked Exhibit K, and made a part hereof; and that said deed was filed for record in the office of the county clerk of Lane County, Oregon, on October 20, A. D. 1884, and recorded in record of deeds for Lane County, Oregon, in volume J, on pages 379, 380.

12 That on the 15th day of May, A. D. 1874, B. J. Pengra and C. E. Pengra, his wife, made, executed, and delivered to G. W. Colby, John Boggs, N. D. Rideout, W. H. Parks, R. F. Parks, Edgar Mills, E. B. Pond, Nicholas Lunning, W. C. Belcher, and T. B. Simpson, a deed, a certified copy of which is hereunto attached, marked Exhibit L, and made a part hereof, and that said deed was filed for record in the office of the county clerk, of Lane County, Oregon, on May 15th, A. D. 1874, and recorded in Record of Deeds for Lane County, Oregon, in Volume J, on page 268.

That on the 15th day of October, A. D. 1874, B. J. Pengra and C. E. Pengra, his wife, made, executed, and delivered to G. W. Colby, Nicholas Lunning, E. B. Pond, J. M. Peck, Isaac Allen, B. F. Baker, M. P. Jones, C. H. Holbrook, W. C. Belcher, N. D. Rideout, and Isaac Lohman, a deed, a certified copy of which is hereunto attached, and marked Exhibit M, and made a part hereof; and that said deed was filed for record in the office of the county clerk of Lane County, Oregon, on October 21, A. D. 1874, and recorded in Record of Deeds of Lane County, Oregon, in Volume J, on page 382.

That on the 3d day of March, A. D. 1877, said G. W. Colby, Nicholas Lunning, E. B. Pond, J. M. Peck, Isaac Allen, B. F. Baker, M. P. Jones, C. H. Holbrook, W. C. Belehn, N. D. Rideout, and Isaac Lohman, made, executed, and delivered to the California and Oregon Land Company a certified copy of which is hereunto attached, marked Exhibit N, and made part hereof; which said deed was filed for record in the office of the county clerk of Grant County, Oregon, on the first day of March, A. D. 1878, and was recorded on pages 103 to 108, in Volume D of the Record of Deeds in and for said Grant County.

That each and every of said deeds conveyed the lands in bulk, and purported to grant to the respective grantees all the lands lying and being in the State of Oregon granted or intended to be granted to the State of Oregon by the act of Congress first hereinabove pleaded and granted or intended to be granted by the State of Oregon to the Oregon Central Military Road Company by the act of the legislative assembly first hereinabove pleaded; and that the substantive parts of both of said acts are recited in all of the said deeds, and expressly made parts of each thereof.

XIX. And your orator further shows to your honors that the California and Oregon Land Company is a private corporation, purporting to have been incorporated under the general laws of the State of California, on the 9th day of January, 1877. That the enterprise and business in which the said corporation proposed to engage was, among other things, that of buying and selling lands in the State of Oregon. That the incorporators were N. D. Rideout, W. H. Parks, Wm. C. Belcher, R. F. Parks, M. P. Jones, E. B. Pond, G. W. Colby, J. M. Peck, James Carolan, Nicholas Lunning, B. F. Baker, Isaac Lohman, Isaac Allen, Edgar Mills, Orrin Gowell, Robert Hamilton, and John Boggs; that the said corporation is still in being, and that E. B. Pond is the president and Abraham Halsey the secretary thereof.

XX. And your orator further shows to your honors, that the maps or plats referred to in the certificates hereinabove set forth, showed the line of the pretended road to be four hundred and twenty miles, which would make the grant of lands covered by the act of Congress first aforesaid embrace in the aggregate about seven hundred and twenty thousand acres, of which four hundred and two thousand two hundred and forty and $\frac{67}{100}$ acres have been in effect patented to the said road company, and for the remaining three hundred and seventeen thousand seven hundred and fifty-nine and $\frac{33}{100}$ acres the said company inequitably claims the right to have a patent issue therefor.

13 XXI. And your orator further shows to your honors that each and every of the defendants, to wit: The Oregon Central Military Road Company, B. J. Pengra, C. E. Pengra, G. W. Colby, John Boggs, N. D. Rideout, W. H. Parks, R. F. Parks, Edgar Mills, E. B. Pond, Nicholas Lunning, W. C. Belcher, F. B. Simpson, J. W. Peck, Isaac Allen, B. F. Baker, M. P. Jones, D. H. Holbrook, Isaac Lohman, A. D. Breed, the California and Oregon Land Company, at the time of the execution and delivery of the deeds aforesaid, and at the time of the accruing of their or any of their interests in said lands aforesaid, had full knowledge that the road provided for by the act of Congress first aforesaid had not at any time been constructed and maintained as required by said act of Congress and by the laws of the State of Oregon, so as to be in any sense whatsoever a pubic highway, or so that it could be used by the United States, or by any of the citizens or residents thereof as a public highway, or so that the United States could transport its property, troops, or mails over the same, and also had full knowledge that no grades had been established or constructed upon said road or any part thereof, that no clearing had been done on any part thereof, no bridges built over any streams on the line thereof, no cuts made, and no turnouts constructed anywhere on said line of road by the Oregon Central Military Road Company, or by any of the grantors or grantees mentioned and described in any of said deeds aforesaid, and that no ferries had been established or maintained over any streams on the line of said road, and had full knowledge that said road was not begun nor completed within five years from the date of the passage of the act of Congress first aforesaid, and that it had never been begun, constructed, or maintained, and that each and every of said defendants well knew that the statements made in the certificates of the governors and acting governor of Oregon hereinabove set forth were false; that the governors and acting governor did not at any time whatsoever examine the road referred to in the said certificates, and that the said certificates had been procured by false and fraudulent representations as aforesaid, and that the patents aforesaid were procured to be issued upon said false and fraudulently-procured certificates.

Prayer.

I. Your orator therefore prays that all the lands granted to the State of Oregon by the act of Congress of date July 2d, A. D. 1864, be decreed forfeit to the United States and restored to the public domain.

II. That the patents and lists described in this bill of complaint be declared fraudulent and void.

III. That the certificates described in this bill of complaint be declared fraudulent and void.

IV. That the deeds described in this bill of complaint be declared fraudulent and void.

V. That the United States have such other and further relief as to equity seemeth meet.

VI. That the United States writ of subpœna may issue requiring the defendants to appear in this honorable court under certain pains and penalties therein prescribed and answer the foregoing bill of complaint.

VI. And that the defendants pay the costs, expenses, and disbursements of this suit.

O. W. Chapman,
Acting Attorney-General.
Lewis L. McArthur,
U. S. Attorney for Oregon.
William Casey Johnson,
Special Assistant U. S. Attorney.

(Endorsed :) Filed August 30, 1889. R. H. Lamson, clerk.

14

Exhibit "A."

List No. 1 of lands "in place" granted to the State of Oregon by the act of Congress approved the 2nd of July, 1864, "to aid in the construction of a military road from Eugene City to the eastern boundary of said State."

15 [List No. 1 of lands in places granted to the State of Oregon by the act of Congress approved July 2nd, 1864, "to aid in the construction of a military road from Eugene City to the eastern boundary of said State."]

ROSEBURG DISTRICT, SOUTHEAST.—THREE MILES LIMITS.

Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
All of	5	19	1	614. 72	
All of	7	19	1	641. 18	
All of	19	19	1	599. 60	
All of	25	19	1	640. 00	
All of	27	19	1	640. 00	
All of	29	19	1	605. 19	
All of	33	19	1	592. 42	
All of	35	19	1	640. 00	
All of	1	20	1	625. 18	
All of	3	20	1	567. 18	
All of	11	20	1	640. 00	
All of	7	20	2	612. 83	
All of	17	20	2	626. 24	
All of	35	20	2	596. 79	
All of	1	21	2	605. 15	
All of	11	21	2	629. 20	
All of	13	21	2	595. 39	
NE. frl. ¼	3	21	3	160. 36	
NE. frl. ¼ of NW. ¼ & S. ½ of NW. ¼	3	21	3	120. 48	
S. ½ of sec	3	21	3	320. 00	
All of	5	21	3	639. 56	
All of	7	21	3	634. 62	
16 N. ½ of sec. SW. ¼ and S. ½ of SE. ¼	9	21	3	560. 00	
All of	15	21	3	640. 00	
W. ½ of NW. ¼ and lots 1, 2, 3, 4, 5, 6, 7, & 8	17	21	3	357. 60	
Lots No. 1 & 2	21	21	3	38. 04	
Lots No. 1 & 2	27	21	3	80. 53	

EXHIBIT "A"—*List No.* 1 *of lands "in place" granted to the State of Oregon, etc.*—Con.

SOUTHWEST.

Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
SE ¼	1	19	1	160.00	
SW. ¼ of NE. ¼ & S. ½ of NW. ¼	1	19	1	120.00	
Lots No. 1, 2, 3, 4, 5, 6 & 7	1	19	1	157.17	
N. frl. ½ of NE. ¼	3	19	1	82.06	
N. frl. ½ of NW. ¼	3	19	1	81.90	
SW. ¼ of NW. ¼	3	19	1	40,00	
S. ½ of SE. ¼ & SE. ¼ of SW. ¼	3	19	1	120.00	
NE. ¼ of SE. ¼ and lots 1, 3, 4, 5, 6, 7, & 8	9	19	1	189.73	
E. ½ of SW. ¼ SE. ¼ of NE. ¼ & lots 1, 2, 3, & 4	11	19	1	197.26	
N. ½ of sec	13	19	1	320.00	
Lots 3, 4, 5, 6, 7, & 8	13	19	1	196.50	
SE. ¼ of SW. ¼	15	19	1	40.00	
Lots 1, 2, 5, 6, 7, 9, 11, & 12	15	19	1	168.70	
Lots No. 3, 4, & 5	17	19	1	46.45	
W. frl. ½ of sec	19	19	1	322.28	
17 N. ½ of NE. ¼	19	19	1	80.00	
S. ½ of SE. ¼	19	19	1	80.00	
Lot No. 1	21	19	1	11.14	
Lots No. 1, 2, & 3 & SW. ¼	27	19	1	240.12	
S. ½ of sec	29	19	1	320.00	
Lots No. 2, 3, 4, 5, & 6	29	19	1	150.96	
N. ½ of NE, ¼	31	19	1	80.00	
N. ½ of sec	33	19	1	320.00	
N. ½ of SE. ¼	33	19	1	80.00	
N. ½ of SW. ¼	33	19	1	80.00	
Lots No. 1, 2, 3, & 4	1	19	2	86.28	
Lot 3	3	19	2	8.00	
Lot 2	5	19	2	12.74	
Lots 2 & 3	9	19	2	21.70	
All of	11	19	2	640.00	
W. ½ of sec	13	19	2	320.00	
W. ½ of SE. ¼	13	19	2	80.00	
Lots No. 1, 2, 3, 4, & 5	13	19	2	78.48	
N. ½ of NE, ¼	23	19	2	80.00	
SE. ¼ of NE. ¼	23	19 S	2 W	40.00	
NE. ¼ of NW. ¼	23	19	2	40.00	
SE. ¼ of NE. ¼	25	19	2	40.00	
Total				19,153.73	

18 DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
November 13*th*, 1867.

I, Joseph S. Wilson, Commissioner of the General Land Office, do hereby certify that the foregoing on pages one to three inclusive, is a correct and true list of the tracts of land within the three miles limits, granted to the State of Oregon, by the act of Congress, approved the 2d of July, 1864, entitled "An act granting lands to the State of Oregon, to aid in the construction of a military road from Eugene City to the eastern boundary of said State," being the vacant and unappropriated lands in the alternate sections designated by odd numbers for three sections in width on each side of said road, and making the first thirty sections which the said State is authorized by the 4th section of the act to sell in advance of the building of any portion of the road.

And I respectfully recommend that the same be approved subject to any valid interfering rights which may have existed at the date of selection.

In testimony whereof I have hereunto subscribed my name and caused the seal of the General Land Office to be affixed at the City of Washington on the day and year first herein above written.

[SEAL.] JOS. S. WILSON,
Commissioner.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., November 13th, 1867.

Approved, subject to the conditions and rights above mentioned.

O. H. BROWNING,
Secretary.

19 DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Aug. 8th, 1889.

I, W. M. Stone, Acting Commissioner of the General Land Office, do hereby certify that the annexed copy of list No. 1, of lands certified to the State of Oregon November 13, 1867, for the Oregon Central Military Wagon Road Company, is a true and literal exemplification from the original on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[SEAL.] W. M. STONE,
Acting Commissioner of the General Land Office.

20 EXHIBIT B.

List No. 2 of lands "in place" granted to the State of Oregon by the acts of Congress approved the 2d of July, 1864, and the 3d of March, 1869, "to aid in the construction of a military road from Eugene City to the eastern boundary of said State."

21 SOUTH OF BASE LINE AND EAST OF WILLAMETTE MERIDIAN, OREGON.
OREGON CENTRAL MILITARY WAGON ROAD—LIST.

[Three-mile limits. Roseburg district.]

Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
All of sec	23	29	8	640.00	
All of	25	29	8	640.00	
All of	27	29	8	640.00	
All of	35	29	8	640.00	
W. ½ of sec	1	30	8	320.36	
All of	3	30	8	640.28	
All of	11	30	8	640.00	
W. ½ of sec	13	30	8	313.95	
Fract'l sec	15	30	8	274.13	
All	1	35	9	648.00	
All	3	35	9	647.46	
S. ½ of sec. & NE. ¼	5	35	9	481.20	
All of	9	35	9	640.00	
All of	11	35	9	640.00	
All of	13	35	9	640.00	
All of	23	35	9	640.00	
All of	25	35	9	640.00	
All of	35	35	9	640.00	
SW. ¼	5	35	10	160.00	
All of	7	35	10	644.32	
SW. ¼	15	35	10	160.00	
All of	17	35	10	640.00	
All of	19	35	10	643.89	
22 All of	21	35	10	640.00	
W. ½ of sec. & SE. ¼	23	35	10	480.00	
All of	25	35	10	640.00	
All of	27	35	10	640.00	
All of	29	35	10	640.00	
All of	31	35	10	642.22	
All of	33	35	10	640.00	
All of	35	35	10	640.00	
All of	1	36	10	640.35	
All of	3	36	10	640.00	

EXHIBIT B.—*List No. 2 of lands "in place" granted to the State of Oregon, etc.*—**Cont'd.**

Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
All of	5	36	10	638.46	
All of	7	36	10	640.42	
All of	9	36	10	640.00	
All of	11	36	10	640.	
All of	13	36	10	640.00	
All of	15	36	10	640.00	
N. ½ of sec	17	36	10	320.00	
All of	23	36	10	640.00	
All of	27	35	11	640.00	
All of	29	35	11	640.00	
All of	31	35	11	636.24	
All of	33	35	11	640.00	
All of	35	35	11	640.00	
All of	25	35	11	640.00	
All of	1	36	11	641.46	
All of	3	36	11	646.74	
23 All of	5	36	11	641.26	
All of	7	36	11	632.48	
All of	9	36	11	640.00	
All of	11	36	11	640.00	
All of	13	36	11	640.00	
All of	15	36	11	640.00	
All of	17	36	11	640.00	
All of	19	36	11	642.26	
All of	21	36	11	640.00	
All of	23	36	11	640.00	
S. ½ of sec	25	35	12	320.00	
All of	27	35	12	640.00	
All of	29	35	12	640.00	
All of	31	35	12	640.73	
All of	33	35	12	640.00	
All of	35	35	12	640.00	
All of	1	36	12	640.20	
All of	3	36	12	644.80	
All of	5	36	12	644.16	
All of	7	36	12	641.88	
All of	9	36	12	640.00	
All of	11	36	12	640.00	
All of	13	36	12	640.00	
All of	15	36	12	640.00	
All of	17	36	12	640.00	
All of	19	36	12	654.02	
24 All of	21	36	12	640.00	
All of	23	36	12	640.00	
All of	25	36	12	640.00	
All of	31	35	13	639.44	
S. ½ of sec., S. ½ of NE. ¼, and S. ½ of NW. ¼	33	35	13	480.00	
S ½ of sec., S. ½ of NE. ¼., and S. ½ of NW	35	35	13	480.00	
All of	1	36	13	639.23	
All of	3	36	13	633.84	
All of	7	36	13	638.46	
All of	11	36	13	640.00	
All of	13	36	13	640.00	
All of	15	36	13	640.00	
All of	17	36	13	640.00	
All of	19	36	13	641.22	
All of	21	36	13	640.00	
All of	23	36	13	640.00	
All of	25	36	13	640.00	
All of	27	36	13	640.00	
All of	29	36	13	640.00	
N. ½ of NE. ¼ & N. ½ of NW. ¼	33	36	13	160.00	
N. ½ of NE ¼ & N. ½ of NW	35	36	13	160.00	
S. ½ of sec., S. ½ of NE. ¼, and S. ½ of NW. ¼	31	35	14	475.47	
S. ½ of sec	33	35	14	320.00	
25 SW. ¼	1	36	14	160.00	
All of	3	36	14	632.00	
All of	5	36	14	632.80	
All of	7	36	14	633.38	
All of	9	36	14	640.00	
All of	11	36	14	640.00	
All of	13	36	14	640.00	
All of	15	36	14	640.00	
All of	17	36	14	640.00	
All of	19	36	14	640.12	
All of	21	36	14	640.00	
All of	23	36	14	640.00	
All of	25	36	14	640.00	
All of	27	36	14	640.00	
All of	29	36	14	640.00	
N. ½ of NE. ¼ & N. ½ of NW. ¼	31	36	14	158.38	

EXHIBIT B.—*List No. 2 of lands "in place" granted to the State of Oregon, etc.*—Cont'd.

Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
N. ½ of sec. SE. ¼ & N. ½ of SW. ¼	33	36	14	560. 00	
All of	35	36	14	640. 00	
All of	1	37	14	642. 82	
E. ½ of sec. & NW. ¼	3	37	14	486. 78	
E. ½ of sec, & NW. ¼	11	37	14	480. 00	
E. ½ of sec	13	37	14	320. 00	
W. ½ of sec	7	36	15	318. 52	
W. ½ of sec	17	36	15	320. 00	
All of	19	36	15	640. 58	
W. ½ of sec. & SE. ¼	21	36	15	480. 00	
26 W. ½ of sec. & SE. ¼	27	36	15	440. 00	
All of	29	36	15	640. 00	
All of	31	36	15	640. 00	
All of	33	36	15	640. 00	
W. ½ of sec. & SE. ¼	35	36	15	480. 00	
W. ½ of sec, & SE. ¼	1	37	15	477. 84	
All of	5	37	15	641. 76	
All of	7	37	15	642. 86	
All of	9	37	15	640. 00	
All of	11	37	15	640. 00	
All of	13	37	15	640. 00	
All of	15	37	15	640. 00	
All of	17	37	15	640. 00	
N. ½ of sec	19	37	15	320. 00	
All of	21	37	15	640. 00	
All of	23	37	15	640. 00	
All of	25	37	15	640. 00	
All of	27	37	15	640. 00	
N ½ of sec	29	37	15	320. 00	
N. ½ of sec. & SE. ¼	33	37	15	480. 00	
All of	35	37	15	640. 00	
All of	1	39	18	639. 84	
All of	13	39	18	640. 00	
All of	23	38	19	640. 00	
All of	25	38	19	640. 00	
All of	27	38	19	640. 00	
27 E. ½ of sec. and SW. ¼	29	38	19	480. 00	
All of	31	38	19	637. 70	
All of	33	38	19	640. 00	
All of	35	38	19	640. 00	
All of	1	39	19	639. 20	
All of	3	39	19	634. 92	
All of	5	39	19	634. 08	
All of	7	39	19	633. 36	
All of	9	39	19	640. 00	
All of	11	39	19	640. 00	
All of	13	39	19	640. 00	
All of	15	39	19	640. 00	
All of	17	39	19	640. 00	
All of	19	39	19	632. 96	
All of	21	39	19	640. 00	
All of	23	39	19	640. 00	
N. ½ of NE. ¼ & N. ½ of NW. ¼	29	39	19	160. 00	
SE. ¼	7	38	20	160. 00	
All of	9	38	20	640. 00	
W. ½ of sec. & SE. ¼	11	38	20	480. 00	
All of	13	38	20	640. 00	
All of	15	38	20	640. 00	
All of	17	38	20	640 00	
All of	19	38	20	635. 66	
All of	21	38	20	640. 00	
All of	23	38	20	640. 00	
28 All of	25	38	20	640. 00	
All of	27	38	20	640. 00	
All of	29	38	20	640. 00	
All of	31	38	20	630. 36	
All of	33	38	20	640. 00	
All of	35	38	20	640. 00	
All of	1	39	20	639. 72	
All of	3	39	20	639. 40	
All of	5	39	20	641. 36	
All of	7	39	20	636. 12	
N. ½ of sec	9	39	20	320. 00	
All of	11	39	20	640. 00	
All of	13	39	20	640. 00	
NW. ¼	17	39	20	160. 00	
All of	25	38	21	640. 00	
All of	27	38	21	640. 00	
All of	31	38	21	640. 80	
All of	33	38	21	640. 00	

EXHIBIT B.—*List No. 2 of lands "in place" granted to the State of Oregon, etc.*—**Cont'd.**

Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
All of	35	38	21	640.00	
All of	1	39	21	636.58	
All of	3	39	21	642.66	
All of	5	39	21	641.44	
All of	7	39	21	644.86	
All of	9	39	21	640.00	
All of	11	39	21	640.00	
All of	1	38	22	639.64	
29 E. ½ of sec	11	38	22	320.00	
All of	13	38	22	640.00	
S. ½ of sec	15	38	22	320.00	
All of	17	38	22	640.00	
All of	19	38	22	639.84	
All of	21	38	22	640.00	
All of	13	37	22	640.00	
All of	23	37	22	640.00	
All of	25	37	22	640.00	
All of	27	37	22	640.00	
All of	35	37	22	640.00	
All of	3	25	7	645.76	
N. ½ of sec. & SE. ¼	5	25	7	484.58	
All of	9	25	7	640.00	
All of	11	25	7	640.00	
W. ½ of NW. ¼ & W. ½ of SW. ¼	13	25	7	160.00	
All of	15	25	7	640.00	
E. ½ of sec	17	25	7	320.00	
All of	21	25	7	640.00	
All of	23	25	7	640.00	
All of	25	25	7	640.00	
All of	27	25	7	640.00	
E. ½ of sec	29	25	7	320.00	
All of	33	25	7	640.00	
All of	35	25	7	640.00	
All of	1	26	7	640.36	
30 All of	3	26	7	638.70	
All of	9	26	7	640.00	
All of	11	26	7	640.00	
All of	13	26	7	640.00	
All of	23	26	7	640.00	
All of	25	26	7	640.00	
All of	35	26	7	640.00	
W. ½ of NW. ¼ & W. ½ of SW. ¼	19	25	8	160.00	
SW. ¼ S. ½ of NW. ¼ & NW. ¼ of W. W. ¼	31	25	8	280.68	
W. ½ of sec	5	26	8	320 80	
All of	7	26	8	638.96	
All of	17	26	8	640.00	
All of	19	26	8	639.58	
W. ½ of sec	21	26	8	320.00	
All of	29	26	8	640.00	
All of	31	26	8	639.54	
W. ½ of sec	33	26	8	320.00	
All of	23	38	22	640.00	
All of	25	38	22	640.00	
All of	27	38	22	640.00	
All of	29	38	22	640.00	
All of	31	38	22	638.40	
All of	33	38	22	640.00	
All of	35	38	22	640.00	
All of	3	39	22	638.66	
31 All of	5	39	22	639.84	
All of	7	39	22	637.12	
All of	9	39	22	640.00	
N. ½ of sec	17	39	22	320.00	
All of	37	39	21	639.36	
All of	13	36	23	640.00	
All of	15	36	23	640.00	
All of	21	36	23	640.00	
All of	23	36	23	640.00	
All of	25	36	23	660.00	
All of	27	36	23	640.00	
All of	29	36	23	640.00	
All of	31	36	23	639.58	
All of	33	36	23	640.00	
All of	35	36	23	640.00	
All of	3	37	23	638.72	
All of	5	37	23	637.45	
All of	7	37	23	638.67	
All of	9	37	23	640.00	
All of	17	37	23	640.00	
All of	19	37	23	639.76	
All of	7	36	24	643.16	
All of	17	36	24	640.00	

Exhibit B.—*List No. 2 of lands "in place" granted to the State of Oregon, etc.*—Cont'd.

Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
All of	19	36	24	642.52	
All of	21	36	24	640.00	
All of	27	36	24	618.00	
32 All of	29	36	24	640.00	
All of	31	36	24	640.38	
All of	33	36	24	640.00	
All of	5	38	23	634.28	
All of	7	38	23	638.40	
N. ½ of sec. & SW. ¼	19	38	23	482.04	
Total				167,633.67	

33 General Land Office, *April* 18, 1871.

This list has been carefully examined with the records of this office, found free from conflict, and inuring to the State of Oregon for the purpose indicated.

Thos. Cromwell,
H. Barber.

Department of the Interior,
General Land Office,
April 18, 1871.

I, Willis Drummond, Commissioner of the General Land Office, do hereby certify that the foregoing, on pages one to eight, inclusive, is a correct and true list of the tracts of land within the three-mile limits granted to the State of Oregon by the act of Congress approved the 2nd of July, 1864, entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State," and the acts of Congress approved the 3rd of March, 1869, to extend the time for the completion of said road, being the vacant and unappropriated lands in the alternate sections designated by odd numbers for three sections in width on each side of said road. And further, it is shown by certificate of the governor of said State, bearing date 12th January, 1870, that said Oregon Central Military road had been completed from Eugene City to the eastern boundary of said State.

I respectfully recommend that the same be approved, subject to any valid interfering rights which may have existed at the date of selection.

In testimony whereof I have hereunto subscribed my name and caused the seal of the General Land Office to be affixed, at the City of Washington, on the day and year first herein above written.

[seal.] Willis Drummond,
Commissioner.

Department of the Interior,
Washington, D. C., April 21, 1871.

Approved, subject to the conditions and rights above mentioned.

C. Delano,
Secretary.

34 DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Aug. 8th, 1889.

I, W. M. Stone, Acting Commissioner of the General Land Office, do hereby certify that the annexed copy of list No. 2 of lands certified to the State of Oregon, April 21, 1871, for the Oregon Central Military Wagon Road Company, is a true and literal exemplification from the original on file in this office.

In testimony whereof I have hereunto subscribed my namd and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] W. M. STONE,
Acting Commissioner of the General Land Office.

35 EXHIBIT C.

List No. 4, of lands "in place," granted to the State of Oregon by the acts of Congress approved the 2d of July, 1864, and the 3d of March, 1869, "to aid in the construction of a military road from Eugene City to the eastern boundary of said State.

36 SOUTH OF BASE LINE AND EAST OF WILLAMETTE MERIDIAN, OREGON, OREGON CENTRAL MILITARY WAGON ROAD LIST.

[Three-mile limits. Roseberg district.]

Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
All of	29	24	4	640.00	
NE.^{4} & S. fr'l ½	11	24	6	477.80	
Fractional	13	24	6	578.30	
Fractional	15	24	6	322.30	
SE.^{4}	17	24	6	160.00	
All of	19	24	6	644.92	
Frac'l	21	24	6	400.80	
Frac'l	23	24	6	3.00	
All of	25	24	6	640.00	
Frac'l	27	24	6	263.60	
Frac'l	29	24	6	397.21	
Frac'l	31	24	6	643.20	
All of	33	24	6	640.00	
All of	35	24	6	640.00	
SW.^{4}	5	25	7	160.00	
All of	7	25	7	643.66	
W.^{2}	17	25	7	320.00	
All of	19	25	7	643.22	
W.^{2}	29	25	7	320.00	
E.^{2} & E.^{2} of W.^{2}	31	25	7	480.00	
All of	1	28	7	640.10	
All of	3	28	7	641.46	
37 E.^{2}	9	28	7	320.00	
All of	11	28	7	640.00	
All of	13	28	7	640.00	
All of	15	28	7	640.00	
All of	25	28	7	640.00	
All of	13	27	7	640.00	
E.^{2}	21	27	7	320.00	
S.^{2} of S.^{2}	31	18	1	159.99	
All of	23	21	3	640.00	
Frac'l	35	21	3	604.48	
Frac'l	1	22	3	640.38	
Frac'l	11	22	3	611.60	
All of	13	22	3	640.00	
Frac'l	23	22	3	631.05	
NW.^{4}	25	22	3	160.00	
Lots 1, 2, 3, & 4	27	22	3	162.60	
All of	35	22	3	640.00	
Frac'l	3	23	3	635.74	
E.^{2} of E.^{2} lots 1, 2, 3, & 4	9	23	3	297.05	
All of	15	23	3	640.00	
Frac'l	21	23	3	606.00	

EXHIBIT C.—*List No. 4, of lands "in place," granted to the State of Oregon, etc.*—Cont'd.

Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
All of	27	23	3	640.00	
Frac'l	33	23	3	638.49	
All of	1	24	3	640.80	
Frac'l	3	24	3	611.95	
NE. ^{4}	9	24	3	160.00	
38 Frac'l	11	24	3	613.25	
Frac'l	13	24	3	619.25	
NE. ^{4}	15	24	3	160.00	
All of	1	24	4	640.00	
All of	3	24	4	641.26	
All of	5	24	4	641.23	
All of	7	24	4	642.06	
All of	9	24	4	640.00	
Frac'l	11	24	4	614.90	
Frac'l	15	24	4	625.85	
Frac'l	17	24	4	624.35	
All of	19	24	4	642.00	
All of	21	24	4	640.00	
All of	23	27	7	640.00	
All of	25	27	7	640.00	
E. ^{2} of	33	27	7	320.00	
All of	35	27	7	640.00	
All of	3	32	9	639.94	
All of	9	32	9	640.00	
All of	15	32	9	640.00	
All of	21	32	9	640.00	
All of	27	32	9	640.00	
All of	3	33	9	642.40	
All of	15	33	9	640.00	
All of	21	33	9	640.00	
All of	27	33	9	640.00	
39 All of	31	33	9	625.86	
All of	33	33	9	640.00	
All of	35	33	9	640.00	
All of	3	34	9	642.38	
All of	5	34	9	639.80	
All of	7	34	9	642.36	
All of	9	34	9	640.00	
All of	15	34	9	640.00	
All of	17	34	9	640.00	
All of	19	34	9	641.46	
All of	21	34	9	640.00	
All of	23	34	9	640.00	
All of	27	34	9	640.00	
All of	29	34	9	640.00	
All of	31	34	9	640.48	
All of	33	34	9	640.00	
All of	35	34	9	640.00	
All of	1	38	15	638.50	
NE. ^{4}	3	38	15	161.35	
All of	15	37	16	640.00	
All of	17	37	16	640.00	
All of	19	37	16	638.30	
All of	21	37	16	640.00	
All of	23	37	16	640.00	
All of	25	37	16	640.00	
All of	27	37	16	640.00	
40 All of	29	37	16	640.00	
All of	31	37	16	641.38	
All of	33	37	16	640.00	
All of	35	37	16	640.00	
All of	5	38	17	639.01	
NE. ^{4}	7	38	17	160.00	
N. ^{2} & SE. ^{4}	17	38	17	480.00	
All of	21	38	17	640.00	
All of	1	37	22	640.48	
SE. ^{4}	3	37	22	160.00	
All of	11	37	22	640.00	
All of	15	37	22	640.00	
W. ^{2}	21	37	23	320.00	
All of	31	37	23	641.96	
All of	29	37	23	640.00	
S. ^{2}	7	36	23	318.71	

Exhibit C.—*List No.* 4, *of lands "in place," granted to the State of Oregon, etc.*—**Cont'd.**

SOUTH AND WEST.

Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
Lot 1	17	17	3	2.14	
Lot 1	21	17	3	4.81	
Lots 1, 2, 3 & 4	23	17	3	77.64	
NW. ^{4} of SW. ^{4} & lots 1, 2, 3, 4, 5, 6, 7, 8 & 9	1	18	3	302.59	
Lots 1, 2, 3, 4, 5 & 6	3	18	3	85.53	
Lots 1, 2 & 3	5	18	3	38.45	
SE. ^{4}	9	18	3	160.00	
41 Lot 7	13	18	3	7.48	
Lots 1-6 & 11	17	18	3	65.72	
SE. ^{4}, S. ^{2} of SW. ^{4} & lot 1	25	18	3	254.84	
S. ^{2} of NE. ^{4}, N. ^{2} of SE. ^{4} & lots 1 & 2	27	18	3	231.59	
Lot 1	35	18	3	34.40	
S. $\frac{1}{2}$ of N. ^{2}, N. ^{2} of S. ^{2}, NE. of NE, NW. ^{4} of NW. ^{4}, SE. ^{4} of SE. ^{4} & lots 1 & 2	15	19	2	518.40	
SE. ^{4}, S. ^{2} of NE. ^{4}, lots 1, 2, 3 & 4	7	18	2	300.84	
E. ^{2} of SW. ^{4} & lot 11	9	18	2	102.12	
Lots 2, 3 & 8	15	18	2	24.85	
NW. ^{4}, N. ^{2} & SW. ^{4} of NE., N. ^{2} of SW. ^{4}, W. ^{2} of SE. ^{4} & lots 1, 2, 3, 4 & 5	17	18	2	494.28	
Lots 1 & 2	19	18	2	46.02	
Lots 3, 4, 6, 7, 8, 9, 10, 11 & 12	23	18	2	109.47	
NE. ^{4} and lots 1, 2, 3, 4 & 5	25	18	2	315.57	
Lots 1, 2, 3, 4, 5, 6 & 7	31	18	2	177.10	
Lots 1, 2 & 3	33	18	2	84.10	
Lots 6, 7, 8, 9 & 10	5	19	1	132.99	
SW. ^{4}, SW. ^{4} of NW. ^{4}, W. ^{2} of SE. ^{4}, SE. ^{4} of SE. ^{4}	19	18	1	321.05	
NW. ^{4}, N. ^{2} of S. ^{2} & lots 3 & 4	29	18	1	322.32	
S. ^{2} & NW. ^{4} of NE. ^{4}, E. ^{2} of NW., E. ^{2}, of SE. ^{4} & lots 1, 2, 3, 4, 5, 6, 7, 8 & 9	31	18	1	533.27	
42 SW. ^{4} of SW. ^{4} and lots 1, 2, 3, 4, 6, 7, 8 & 9	33	18	1	209.36	
Lots 2 & 3	35	18	1	48.02	

SOUTH AND EAST.

All of	1	31	9	638.34	
All of	3	31	9	638.96	
Frac'l	9	31	9	286.20	
All of	11	31	9	640.00	
All of	13	31	9	640.00	
All of	15	31	9	640.00	
Frac'l	17	31	9	150.82	
All of	21	31	9	640.00	
All of	23	31	9	640.00	
All of	25	31	9	640.00	
All of	27	31	9	640.00	
Frac'l	29	31	9	30.45	
Frac'l	33	31	9	439.51	
All of	35	31	9	640.00	
All of	1	32	9	641.25	
All of	11	32	9	640.00	
All of	13	32	9	640.00	
All of	23	32	9	640.00	
All of	25	32	9	640.00	
All of	33	32	9	640.00	
All of	35	32	9	640.60	
43 All of	1	33	9	642.20	
All of	9	33	9	640.00	
All of	11	33	9	640.00	
All of	13	33	9	640.00	
All of	23	33	9	640.00	
All of	25	33	9	640.00	
All of	1	34	9	640.12	
All of	11	34	9	640.00	
All of	13	34	9	640.00	
All of	25	34	9	640.00	
N. ^{2} of N. ^{2}	31	35	14	158.25	
N. ^{2} of	33	35	14	320.00	
All of	35	35	14	640.00	
All of	7	31	10	641.18	
All of	31	31	10	642.64	
All of	7	32	10	639.78	

Exhibit C.—*List No. 4, of lands "in place," granted to the State of Oregon, etc.*—Cont'd.

SOUTH AND EAST—Continued.

Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
All of	19	32	10	633.92	
All of	29	32	10	640.00	
All of	31	32	10	633.50	
All of	33	32	10	640.00	
All of	5	33	10	637.76	
All of	7	33	10	632.82	
All of	9	33	10	640.00	
All of	17	33	10	640.00	
All of	19	33	10	640.00	
All of	21	33	10	640.00	
44 All of	29	33	10	640.00	
All of	31	33	10	639.20	
All of	33	33	10	640.00	
All of	1	38	16	640.00	
All of	3	38	16	639.54	
All of	5	38	16	634.43	
All of	9	38	16	640.00	
All of	11	38	16	640.00	
All of	13	38	16	640.00	
All of	21	38	16	640.00	
All of	1	36	23	639.78	
All of	3	36	23	638.40	
All of	9	36	23	640.00	
All of	17	36	23	640.00	
All of	19	36	23	638.72	
NW. ¼ & S. ½	7	38	17	480.82	
SW. ¼	17	38	17	160.00	
All of	19	38	17	640.80	
All of	27	38	17	640.00	
All of	29	38	17	640.00	
All of	31	38	17	640.00	
All of	33	38	17	640.00	
All of	35	38	17	649.00	
All of	25	36	22	640.00	
All of	35	36	22	640.00	
NE. ¼	3	37	22	160.26	
45 NE. ¼	21	37	22	160.00	
S. ½	5	36	24	320.00	
Frac'l	9	36	24	635.80	
Total				113,504.91	

46 General Land Office,
December 5, 1871.

This list has been carefully examined with the records of this office, found free from conflict, and inuring to the State of Oregon for the purpose indicated.

W. K. Mendenhall.

Department of the Interior,
General Land Office,
December 5, 1871.

I, Willis Drummond, Commissioner of the General Land Office, do hereby certify that the foregoing, on pages one to seven, inclusive, is a correct and true list of the tracts of land within the three-mile limits granted to the State of Oregon by the act of Congress approved the 2nd of July, 1864, entitled "An act granting lands to the State of Oregon, to aid in the construction of a military road from Eugene City to the eastern boundary of said State," and the acts of Congress approved the 3rd of March, 1869, to extend the time for the completion of said road, being the vacant and unappropriated lands in the alternate sections designed by odd numbers for three sections in width on each side of said road. And further, it is shown by the certificate of the governor of said State, bearing date 12th January, 1870, that said Oregon central military road had been completed from Eugene City to the eastern boundary of said State.

I respectfully recommend the same to be approved, subject to any valid interfering rights which may have existed at the date of selection.

In testimony whereof I have hereunto subscribed my name and caused the seal of the General Land Office to be affixed at the city of Washington on the day and year first hereinabove written.

[SEAL.] WILLIS DRUMMOND,
Commissioner.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., 8*th December*, 1871.

Approved subject to the conditions and rights above mentioned.

C. DELANO,
Secretary.

47 DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Aug. 8*th*, 1889.

I, W. M. Stone, Acting Commissioner of the General Land Office, do hereby certify that the annexed copy of list No. 4 of lands certified to the State of Oregon, December 8, 1871, for the Oregon Central Military Wagon Road Company, is a true and literal exemplification from the original on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[SEAL.] W. M. STONE,
Acting Commissioner of the General Land Office.

48 EXHIBIT D.

List No. 6 of lands "in place" granted to the State of Oregon by acts of Congress approved the 2nd of July, 1864, and the 3rd of March, 1869, to aid in the construction of a military road from Eugene City to the eastern boundary of said State.

49 SOUTH OF BASE LINE AND EAST OF WILLAMETTE MERIDIAN, OREGON—OREGON CENTRAL MILITARY WAGON ROAD. LIST.

[Three-mile limits. Roseburg district.]

Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
All of	5	27	8	626.92	
All of	7	27	8	644.84	
W. ½ of sec	9	27	8	320.00	
All of	17	27	8	640.00	
All of	18	27	8	649.08	
W. ½ of sec	21	27	8	320.00	
All of	29	27	8	640.00	
All of	31	27	8	649.06	
W. ½ of sec	33	27	8	320.00	
All of	3	28	8	641.62	
All of	5	28	8	641.48	
All of	7	28	8	650.94	
All of	9	28	8	640.00	
All of	11	28	8	640.00	
All of	15	28	8	640.00	
All of	17	28	8	640.00	

Exhibit D.—*List No. 6 of lands "in place" granted to the State of Oregon, etc.*—Cont'd.

Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
All of	18	28	8	652.96	
All of	21	28	8	640.00	
All of	23	28	8	640.00	
All of	25	28	8	640.00	
All of	27	28	8	640.00	
All of	29	28	8	640.00	
50 All of	31	28	8	647.80	
All of	33	28	8	640.00	
All of	35	28	8	640.00	
All of	1	29	8	638.62	
All of	3	29	8	645.24	
E. ½ of sec	5	29	8	323.48	
All of	9	29	8	640.00	
All of	11	29	8	640.00	
All of	13	29	8	640.00	
All of	15	29	8	640.00	
E. ½ of sec	17	29	8	320.00	
All of	7	24	7	656.38	
All of	17	24	7	640.00	
All of	19	24	7	658.58	
All of	29	24	7	640.00	
All of	31	24	7	651.48	
All of	33	24	7	640.00	
Total				23,458.48	

51 General Land Office,
March 29th, 1873.

This list has been carefully examined with the records of this office, found free from conflict, and inuring to the State of Oregon for the purpose indicated.

W. J. Drummond.

Department of the Interior,
General Land Office,
March 31st, 1873.

I, Willis Drummond, Commissioner of the General Land Office, do hereby certify that the foregoing on pages one to two, inclusive, is a true and correct list of the tracts of land within the three mile limits granted to the State of Oregon by the act of Congress approved July 2nd, 1864, entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State," and the act of Congress approved March 3rd, 1869, to extend the time for the completion of said road; being the vacant and unappropriated lands in the alternate sections designated by odd numbers for three sections in width on each side of said road.

And further it is shown by the certificate of the governor of said State, bearing date January 12th, 1870, that said Oregon Central Military Road had been completed from Eugene City to the eastern boundary of said State.

I respectfully recommend that the same be approved, subject to any valid interfering rights which may have existed at the date of selection.

In testimony whereof I have hereunto subscribed my name and caused the seal of the General Land Office to be affixed at the city of Washington, on the day and year first herein written.

[SEAL.]

Willis Drummond,
Commissioner.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., 2d April, 1873.

Approved, subject to the conditions and rights above mentioned.

B. R. COWEN,
Acting Secretary.

52 DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Aug. 8th, 1889.

I, W. M. Stone, Acting Commissioner of the General Land Office, do hereby certify that the annexed copy of List No. 6 of lands certified to the State of Oregon, April 2d, 1873, for the Oregon Central Military Wagon Road Company, is a true and literal exemplification from the original on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] W. M. STONE,
Acting Commissioner of the General Land Office.

53 EXHIBIT E.

List No. 3, embracing indemnity lands granted to the State of Oregon by the acts of Congress approved the 2d of July, 1864; *the 26th of December,* 1866, *and the 3d of March,* 1869, *to aid in the construction of a military road from Eugene City to the eastern boundary of said State.*

54 SOUTH OF BASE LINE AND WEST OF WILLAMETTE MERIDIAN, OREGON
OREGON CENTRAL MILITARY WAGON ROAD LIST.

[Indemnity limits. Roseburg district.]

Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
Lots No. 5 & 6	19	17	2	32.36	
SW. ¼ of NW. ¼ & lots Nos. 1, 2, 3, 4, 5, 7, & 14	29	17	2	257.74	
NE. ¼ of SW. ¼	7	18	1	40.00	
Lots 5, 6, 7, 9, & 10	9	18	2	140.92	
SE. ¼ of NE. ¼, W. ½ of NE ¼, E. ½ of NW. ¼, & lots 3, 4, 5, 6, & 7	11	18	2	324.92	
SOUTH AND EAST.					
All of	1	38	19	641.70	
All of	11	38	19	640.00	
NW. ¼	13	38	19	160.00	
All of	15	38	19	640.00	
All of	17	38	19	640.00	
All of	19	38	19	638.18	
All of	21	38	19	640.00	
NW. ¼	29	38	19	160.00	
All of	25	39	19	640.00	
All of	27	39	19	640.00	
S. ½ of sec., S. ½ of NE. ¼ of S. ½ of NW. ¼	29	39	19	480.00	
All of	31	39	19	639.08	
All of	33	39	19	640.00	
All of	35	39	19	640.00	
All of	25	37	20	640.00	
55 All of	27	37	20	640.00	
All of	29	37	20	640.00	
All of	31	37	20	633.18	
All of	33	37	20	640.00	
All of	35	37	20	640.00	
All of	1	38	20	638.50	
All of	3	38	20	638.92	
All of	5	38	20	635.20	
W. ½ of sec. & NE. ¼	7	38	20	479.08	
NE. ¼	11	38	20	160.00	

EXHIBIT E.—*List No. 3, embracing indemnity lands granted to the State of Oregon by the acts of Congress approved the 2nd of July, 1864, etc.*—Continued.

SOUTH AND EAST—Continued.

Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
SE. ¼ S. ½ of SW. ¼ & E. ½ of NE. ¼	15	39	20	320.00	
S. ½ of sec. & NE. ¼	17	39	20	480.00	
All of	19	39	20	638.58	
All of	21	39	20	640.00	
All of	23	39	20	640.00	
All of	25	39	20	640.00	
E. ½ of NE. ¼, E. ½ of SE. ¼, & lots No. 1 & 2	27	39	20	191.70	
Fract. sec	29	39	20	370.50	
NE. ¼	35	39	20	160.00	
S. ½ of sec	9	39	20	320.00	
S. ½ of SW. ¼	33	36	14	80.00	
E. ½ of sec	5	30	8	320.30	
All of	7	30	8	649.04	
All of	9	30	8	640.00	
All of	17	30	8	640.00	
56 All of	19	30	8	648.75	
Frl. sec	21	30	8	135.20	
Fr'l. sec	29	30	8	481.68	
N. ½ of sec. & SE. ¼	31	30	8	440.72	
Frl. sec	33	30	8	119.40	
Total				23,475.66	

57

GENERAL LAND OFFICE,
April 18, 1871.

This list has been examined with the records of this office, found free from conflict and inuring to the State of Oregon, for the purpose indicated.

THOS. CROMWELL.
H. BARBER.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
April 18th, 1871.

I, Willis Drummond, Commissioner of the General Land Office, do hereby certify that the foregoing on pages one and two, is a correct and true list of the tracts of land outside the three and within the six mile limits granted to the State of Oregon by the act of Congress approved the 2d of July, 1864, entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State," as amended by the acts of Congress approved December 26th, 1866, and March 3rd, 1869, being the vacant and unappropriated lands in the alternate sections designated by odd numbers and selected in lieu of the lands reserved and otherwise appropriated within the three mile limits of said road. And further, it is shown by certificate of the governor of said State, bearing date 12th January, 1870, that said Oregon Central Military Road had been completed from Eugene City to the eastern boundary of said State.

I respectfully recommend that the same be approved subject to any valid interfering rights which may have existed at the date of selection.

In testimony whereof I have hereunto subscribed my name and caused the seal of the General Land Office to be affixed at the city of Washington, on the day and year first herein above written.

[SEAL.]

WILLIS DRUMMOND,
Commissioner.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., April 21st, 1871.

Approved, subject to the conditions and rights above mentioned.

C. DELANE,
Secretary.

58 DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Aug. 8th, 1889.

I, W. M. Stone, Acting Commissioner of the General Land Office, do hereby certify that the annexed copy of list No. 3, of lands certified to the State of Oregon, April 21, 1871, for the Oregon Central Military Wagon Road Company, is a true and literal exemplification from the original on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington on the day and year above written.

[SEAL.] W. M. STONE,
Acting Commissioner of the General Land Office.

59 EXHIBIT F.

List No. 5, embracing indemnity lands granted to the State of Oregon by the acts of Congress approved the 2nd of July, 1864, *the 26th of December*, 1866, *and the 3rd of March*, 1869, "*to aid in the construction of a military road from Eugene City to the eastern boundary of said State.*"

60 SOUTH OF BASE-LINE AND EAST OF WILLAMETTE MERIDIAN, OREGON, OREGON CENTRAL MILITARY WAGON-ROAD.—LIST.

[Indemnity limits. Roseburg district.]

Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
E. ½	21	28	7	320	
All of	23	28	7	640	
All of	27	28	7	640	
All of	35	28	7	640	
All of	1	29	7	642. 12	
All of	3	29	7	641. 92	
All of	13	29	7	640	
All of	17	33	9	640	
All of	29	33	9	640	
All of	7	37	16	635. 12	
All of	9	37	16	640	
All of	11	37	16	640	
All of	13	37	16	640	
SOUTH AND WEST.					
NE. ¼ of SE. ¼	25	19	2	40	
SOUTH AND EAST.					
All of	9	31	10	641. 98	
All of	11	36	23	640	
SE. ¼	13	36	22	160	
SE. ¼	9	37	22	160	
Totals				9, 640. 14	

61 GENERAL LAND OFFICE,
Decr. 5, 1871.

This list has been carefully examined with the records of this Office, found free from conflict, and inuring to the State of Oregon for the purpose indicated.

W. K. MENDENHALL.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
December 5th, 1871.

I, Willis, Drummond, Commissioner of the General Land Office, do hereby certify that the foregoing on page one, is a correct and true list of the tracts of land outside the three mile and within the six mile limits granted to the State of Oregon, by the act of Congress approved the 2d July, 1864, entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State," as amended by the acts of Congress approved December 26, 1866, and March 3, 1869, being the vacant and unappropriated lands in the alternate sections designated by odd numbers and selected in lieu of the lands reserved and otherwise appropriated within the three mile limits of said road. And further it is shown by certificate of the governor of said State, bearing date 12th January, 1870, that the said Oregon Central Military Road had been completed from Eugene City to the eastern boundary of said State.

I respectfully recommend that the same be approved subject to any valid interfering rights which may have existed at the date of selection.

In testimony whereof I have hereunto subscribed my name, and caused the seal of the General Land Office to be affixed at the city of Washington, on the day and year first herein above written.

[SEAL.] WILLIS DRUMMOND,
Commissioner.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., 8th Dec. 1871.

Approved, subject to the conditions and rights above mentioned.

C. DELANE,
Secretary

62 DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Aug. 8th, 1889.

I, W. M. Stone, Acting Commissioner of the General Land Office, do hereby certify that the annexed copy of List No. 5, of lands certified to the State of Oregon December 8th, 1871, for the Oregon Central Military Wagon Road Company, is a true and literal exemplification from the original on file in this office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of theis office to be affixed at the city of Washington, on the day and year above written.

[SEAL.] W. M. STONE.
Acting Commissioner of the General Land Office.

63 EXHIBIT G.

List No. 7, embracing indemnity lands granted to the State of Oregon by the acts of Congress approved the 2nd of July, 1864, the 26th of December, 1866, and the 3d of March, 1869, "to aid in the construction of a military road from Eugene City to the eastern boundary of said State."

64 SOUTH OF BASE-LINE AND EAST OF WILLAMETTE MERIDIAN, OREGON.
OREGON CENTRAL MILITARY WAGON-ROAD.—LIST.

[Six-mile limits. Roseburg district.]

Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
All of	21	24	7	641	
All of	25	24	7	640	
All of	27	24	7	640	
All of	35	24	7	640	
All of	19	24	8	629.14	
All of	29	24	8	640	
All of	31	24	8	629.80	
Total	....	....	....	4,459.94	

65 GENERAL LAND OFFICE,
March 29, 1873.

This list has been carefully examined with the records of this office, found free from conflict and inuring to the State of Oregon, for the purpose indicated.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
March 31, 1873.

I, Willis Drummond, Commissioner of the General Land Office, do hereby certify that the foregoing on page 1, is a true and correct list of the tracts of land outside the three and within the six mile limits, granted to the State of Oregon by the act of Congress, approved the 2nd of July, 1864, entitled "An act granting lands to the State of Oregon, to aid in the construction of a military road from Eugene City to the eastern boundary of said State," as amended by the acts of Congress approved December 26, 1866, and March 3, 1869, being the vacant and unappropriated lands in the alternate sections designated by odd numbers and selected in lieu of the lands reserved and otherwise appropriated within the three mile limit of said road. And further it is shown by the certificate of the governor of said State, bearing date January 12, 1870, that said Oregon Central Military Road had been completed from Eugene City to the eastern boundary of said State.

I respectfully recommend that the same be approved, subject to any valid interfering rights which may have existed at the date of selection.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the General Land Office to be affixed at the City of Washington, on the day and year first herein above written.

[SEAL.] WILLIS DRUMMOND,
Commissioner.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., 2nd April, 1873.

Approved, subject to the conditions and rights above mentioned.

E. R. COWEN,
Acting Secretary.

66 DEPARTMENT OF THE INTERIOR,
Washington, D. C., Aug. 8th, 1889.

I, W. M. Stone, Acting Commissioner of the General Land Office, do hereby certify that the annexed copy of List No. 7, of lands certified to the State of Oregon, April 2, 1873, for the Oregon Central Military Wagon Road Company, is a true and literal exemplification from the original on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[SEAL.] W. M. STONE,
Acting Commissioner of the General Land Office.

67 EXHIBIT H.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., August , 1889.

I, W. M. Stone, Acting Commissioner of the General Land Office, do hereby certify that the annexed copy of the patent issued to the Oregon Central Military Wagon Road Company, July 15th, 1884, for lands in the State of Oregon, is a true and literal exemplification from the record thereof in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[SEAL.] W. M. STONE,
Acting Commissioner of General Land Office.

THE UNITED STATES OF AMERICA.

To all to whom these presents shall come, greeting:

Whereas, by the act of Congress approved July 2, 1864, entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State," there is granted "alternate sections of public land, designated by odd numbers, for three sections in width on each side of said road, provided that the lands hereby granted shall be exclusively applied in the construction of said road, and shall be disposed of only as the work progresses, and the same shall be applied to no other purpose whatever; and 68 provided further, that any and all lands heretofore reserved to the United States by act of Congress, or other competent authority, be, and the same are, reserved from the operation of this act, except so far as it may be necessary to locate the route of said road through the same, in which case the right of way is granted."

And whereas, by the act of the legislative assembly of the State of Oregon, approved October 24, 1864, the aforesaid grant was conferred upon the Oregon Central Military Road Company.

And whereas it is shown by certificate on file by the governor of said

State of Oregon, bearing date January 12, 1870, that the said Oregon central military road had been completed from Eugene City to the eastern boundary of said State of Oregon in conformity with said act of Congress of July 2, 1864.

And whereas in pursuance of the act of Congress approved June 18, 1874, entitled "An act to authorize the issuance of patents for lands granted to the State of Oregon in certain cases," the successor to the Oregon Central Military Road Company has applied for a conveyance of the title by patent to the lands thereby granted.

And whereas certain tracts of land have been selected under the act aforesaid by B. J. Pengra, the duly authorized land agent of said Military Road Company, as shown by his original list of selections dated February 3, 1871, and certified under date of February 16, 1871, by the register and receiver at Roseburg, Oregon.

Said tracts of land lie cotermin'us to the constructed line of road and are particularly described as follows, to wit:

SOUTH OF BASE LINE AND WEST OF WILLAMETTE PRINCIPAL MERIDIAN, OREGON.

69 *Roseburg district, township eighteen, range three.*

The lots numbered one, four, six, seven, eight, nine, ten, eleven, and twelve, of section eleven, containing one hundred and ninety-five acres and thirty-four one-hundredths of an acre. The northeast quarter of the southeast quarter, the south half of the southeast quarter, south half of the southwest quarter, and the lots numbered one, two, three, four, five, and six, of section fifteen, containing three hundred and fifty-four acres and eight one-hundredths of acre.

The said tracts of land as above described make the aggregate area of (549.42) five hundred and forty-nine acres and forty-two one-hundredths of an acre.

Now know ye, that the United States of America, in consideration of the premises and pursuant to the said act of Congress, have given and granted, and by these presents do give and grant, unto the said Oregon Central Military Road Company, as beneficiary of said grant to the said State of Oregon, and to its assigns the tracts of land selected as aforesaid and described in the foregoing.

To have and to hold the said tracts with the appurtenances unto the said Oregon Central Military Road Company, and to its assigns forever.

In testimony whereof, I, Chester A. Arthur, President of the United States, have caused these letters to be made patent and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington, this 15th day of July, in the year of our Lord one thousand eight hundred and eighty-four, and of the Independence of the United States the one hundred and ninth.

CHESTER A. ARTHUR.

By the President:

M. McKEAN,
Secretary.

[SEAL.]

S. W. CLARK,
Recorder of the General Land Office.

70

EXHIBIT I.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., August , 1889.

I, W. M. Stone, Acting Commissioner of the General Land Office, do hereby certify that the annexed copy of the patent issued to the Oregon Central Military Wagon Road Company, July 10, 1883, for lands in the State of Oregon, is a true and literal exemplification from the record thereof in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[SEAL.] W. M. STONE,
Acting Commissionnr of General Land Office.

THE UNITED STATES OF AMERICA.

To all to whom these presents shall come, greeting:

Whereas, by the act of Congress approved July 2, 1864, entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State," "there is granted" alternate sections of public land designated by odd numbers for three sections in width on each side of said road; provided, that the lands hereby granted shall be exclusively applied in the construction of said road and shall be disposed of only as the work progresses, and the same shall be applied to no other purpose whatever; and provided further, that any and all lands heretofore reserved to the United States by act of Congress, or other competent authority, be and the
71 same are reserved from the operation of this act, except so far as it may be necessary to locate the route of said road through the same, in which case the right of way is granted.

And whereas by the act of the legislative assembly of the State of Oregon, approved October 24, 1864, the aforesaid grant was conferred upon the Oregon Central Military Road Company:

And whereas, it is shown by certificates on file by the governor of said State of Oregon, bearing date January 12, 1870, that the said Oregon Central Military road had been completed from Eugene City to the eastern boundary of said State of Oregon, in conformity with said act of Congress of July 2, 1864:

And whereas, in pursuance of the act of Congress approved June 18, 1874, entitled "An act to authorize the issuance of patents for lands granted to the State of Oregon in certain cases," the successor to the Oregon Central Military Road Company has applied for a conveyance of the title by patent to the lands thereby granted:

And whereas, certain tracts of land have been selected under the act aforesaid by *F*eorge E. Strong, the duly authorized land agent of the California and Oregon Land Company, successor to the Oregon Central Military Road Company, as shown by his original lists of selections, dated

July 22, 1878, and December 5, 1879, and certified under dates of July 22, 1878, and December 1, 19, 1879, by the register and receiver at Lakeview, Oregon.

The said tracts of land lie coterminus to the constructed line or road and are particularly described as follows, to wit:

SOUTH OF BASE LINE AND EAST OF THE WILLAMETTE PRINCIPAL MERIDIAN, OREGON.

Township thirty-nine, range seventeen.

72 The lots numbered one and two, the southeast quarter of the northeast quarter, and the northeast quarter of the southeast quarter of section three, containing one hundred and fifty-nine acres and fifty-six one-hundredths of an acre. All of section five, containing six hundred and thirty-nine acres and fifty one-hundredths of an acre. All of section nine, containing six hundred and forty acres. The northeast quarter, the southwest quarter of the northwest quarter, and the east half of the southeast quarter of section eleven, containing two hundred and eighty acres. All of section thirteen, containing six hundred and forty acres. The northwest quarter of the northwest quarter, the south half of the northwest quarter, the south half of the southeast quarter, and the southwest quarter of section twenty-three, containing three hundred and sixty acres.

Township thirty-six, range twenty-five.

All of section twenty-five, containing six hundred and forty acres.

Township thirty-six, range twenty-six.

All of section nineteen, containing six hundred and forty acres and ninety-eight one-hundredths of an acre. The southwest quarter, and the south half of the southeast quarter of section seven, containing two hundred and forty acres and thirty one-hundredths of an acre. All of section seventeen, containing six hundred and forty acres. All of section twenty-one, containing six hundred and forty acres. All of section twenty-seven, containing six hundred and forty acres. All of section twenty-nine, containing six hundred and forty acres. All of section thirty-one, containing six hundred and forty acres and ninety-eight one-hundredths of an acre. 73 All of section thirty-three, containing six hundred and forty acres.

Township thirty-seven, range twenty-six.

All of section five, containing six hundred and thirty-eight acres and eighty-eight one-hundredths of an acre. All of section seven, containing six hundred and forty acres and ninety-nine one-hundredths of an acre. All of section fifteen, containing six hundred and forty acres. All of section seventeen, containing six hundred and forty acres. The north half of the northeast quarter, and the north half of the northwest quarter of section twenty-one, containing one hundred and sixty acres.

Township thirty-six, range twenty-eight.

All of section twenty-three, containing six hundred and forty acres. All of section twenty-five, containing six hundred and forty acres. All of section twenty-seven, containing six hundred and forty acres.

Township thirty-five, range thirty-three.

The south half of the northeast quarter, the south half of the northwest quarter, and the south half of section eleven, containing four hundred and eighty acres. All of section thirteen, containing six hundred and forty acres. All of section fifteen, containing six hundred and forty acres. All of section twenty-three, containing six hundred and forty acres. All of section twenty seven, containing six hundred and forty acres. All of section thirty-five, containing six hundred and forty acres.

Township thirty-six, range thirty-three.

74 All of section one, containing six hundred and forty acres and forty-two one-hundredths of an acre. All of section three, containing six hundred and forty acres and forty-two one hundredths of an acre. All of section eleven, containing six hundred and forty acres. The north half of section fifteen, containing three hundred and twenty acres.

Township thirty-seven, range thirty-six.

All of section one, containing six hundred and forty acres and seventy-six one-hundredths of an acre. All of section three, containing six hundred and forty acres and sixty one-hundredths of an acre. All of section five, containing six hundred and thirty-eight acres and forty-eight one-hundredths of an acre. The east half of section nine, containing three hundred and twenty acres. All of section eleven, containing six hundred and forty acres. All of section fifteen, containing six hundred and forty acres. The north half of the northeast quarter, the southeast quarter of the northeast quarter, and the northeast quarter of the southeast quarter of section twenty-one, containing two hundred acres. All of section twenty-three, containing six hundred and forty acres. The north half of the northeast quarter and the north half of the northwest quarter of section twenty-five, containing one hundred and sixty acres. The northeast quarter of the northeast quarter of section twenty-seven, containing forty acres.

Township thirty-six, range thirty-six.

The east half of the northeast quarter, southeast quarter, and the east half of the southwest quarter of section thirteen, containing three hundred and twenty acres. The west half of the northwest quarter, the west
75 half of the southwest quarter, the southeast quarter of the southwest quarter, and the southwest quarter of the southeast quarter of

section fifteen, containing two hundred and forty acres. All of section twenty-one, containing six hundred and forty acres. The south half of the northeast quarter, the south half of the northwest quarter, the northwest quarter of the northwest quarter, and the south half of section twenty-three, containing five hundred and twenty acres. All of section twenty-five, containing six hundred and forty acres. All of section twenty-seven, containing six hundred and forty acres. All of section thirty-one, containing six hundred and forty-one acres and sixty one-hundredths of an acre. All of section thirty-three, containing six hundred and forty acres. All of section thirty-five, containing six hundred and forty acres.

Township thirty-three, range thirty-nine.

All of section thirteen, containing six hundred and forty acres. All of section fifteen, containing six hundred and forty acres. All of section twenty-three, containing six hundred and forty acres.

Township thirty-one, range forty-one.

The west half of section thirteen, containing three hundred and twenty acres. All of section seventeen, containing six hundred and forty acres.

Township thirty, range forty-four.

All of section nine, containing six hundred and forty acres. All of section fifteen, containing six hundred and forty acres. All of section twenty-one, containing six hundred and forty acres. All of section twenty-three, containing six hundred and forty acres. The northeast quarter and
76 the west half of section twenty-five, containing four hundred and eighty acres. The northeast quarter of section twenty-seven, containing one hundred and sixty acres.

Township thirty, range forty-five.

All of section one, containing six hundred and forty acres and seventy-five one-hundredths of an acre. The southeast quarter, south half of the northeast quarter, the south half of the northwest quarter, the east half of the southwest quarter, and the lots numbered one, two, three, and four of section three, containing five hundred and sixty-three acres and sixteen one-hundredths of an acre. The northwest quarter, the west half of the northeast quart', the southeast quarter of the northeast quarter, and the sough half of section nine, containing six hundred acres. All of section seventeen, containing six hundred and forty acres. All of section nineteen, containing six hundred and forty-four acres and twenty one-hundredths of an acre.

Township thirty, range forty-six.

The southeast quarter, the south half of the northeast quarter, the south half of the northwest quarter, the east half of the southwest quarter, the northwest quarter of the southwest quarter, and the lots numbered one, two, three, and four of section one, containing five hundred and ninety-nine acres and twelve one-hundredths of an acre. The north half of the southeast quarter, the north half of the southwest quarter, the south half of the northeast quarter, the south half of the northwest quarter, the southwest quarter of the southwest quarter, and the lots numbered one, two, three, and four of section three, containing five hundred and eighteen acres and sixty-seven one-hundredths of an acre. The lot numbered one, and the south half of section five, containing three hundred and fifty-nine acres and fifty-nine one-hundredths of an acre. The southeast quarter, the west half of the northeast quarter, and the west half of section nine, containing five hundred and sixty acres. The southwest quarter of the southwest quarter of section eleven, containing forty acres. The northwest quarter and the south half of the northeast quarter of section thirteen, containing two hundred and forty acres. 77

Township thirty, range forty-seven.

The lots numbered one, two, and three of section seven, containing one hundred and twelve acres and eighty-six one-hundredths of an acre.

The said tracts of land, as described in the foregoing, make the aggregate area of (40,363.82) forty thousand three hundred and sixty-three acres and eighty-two one-hundredths of an acre.

Now know ye, that the United States of America, in consideration of the premises, and pursuant to the said act of Congress, have given and granted, and by these presents do give and grant, unto the said Oregon Central Military Road Company, as beneficiary of said grant to the said State of Oregon, and to its assigns, the tracts of land selected as aforesaid and described in the foregoing.

To have and to hold the said tracts with the appurtenances unto the said Oregon Central Military Road Company and to its assigns forever.

78 In testimony whereof I, Chester A. Arthur, President of the United States, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington, this tenth day of July, in the year of our Lord one thousand eight hundred and eighty-three, and of the Independence of the United States the one hundred and eighth.

[SEAL.] CHESTER A. ARTHUR.

By the President:

W. H. CROOK,
Secretary.

WM. H. WALKER,
Recorder of the General Land Office ad interim.

79 EXHIBIT J.

The Oregon Central Military Road Company to B. J. Pengra.

This indenture made and entered into at the city of Portland Multnomah County, in the State of Oregon, this 12th day of May, A. D. 1874, between the "Oregon Central Military Road Company," a corporation incorporated, organized, and existing under the laws of the State of Oregon, party of the first part, and B. J. Pengra, of the said State of Oregon,

party of the second part, witnesseth, that the said party of the first part, "The Oregon Central Military Road Company" corporation as aforesaid, in consideration of one dollar and other considerations, it hereunto moving and to it in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, has aliened, released, granted, bargained, and sold and does hereby alien, release, grant, bargain, sell, and convey unto the said B. J. Pengra, the party of the second part, his heirs and assigns, the undivided one-half of all the right, title, and interest of the said party of the first part in and to all the lands lying and being in the State of Oregon granted or intended to be granted to the State of Oregon by the act of Congress approved July 2nd, 1864, entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State and by an act of Congress approved December 26, 1866, entitled "An act to amend an act entitled an act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the
eastern boundary of said State and granted by the State of Oregon
80 to the said Oregon Central Military Road Company by an act of
the legislative assembly of said State of Oregon, approved October
24, 1864, entitled "An act donating certain lands to the Oregon Central Military Road Company," which several acts are hereby made parts hereof, and the undivided one-half of the right, title, and interest of said party of the first part to said grant of land under the several acts aforesaid, whether listed and approved or otherwise; also the undivided one-half of all future right, title, interest, claim, property, and demand which the party of the first part may at any time hereafter acquire to any lands by virtue of an further compliance with the requirements of said acts of Congress, together with the hereditaments and appurtenances, reserving and excepting from this conveyance, however, all sales of said lands heretofore made by the party of the first part, not exceeding seven thousand acres, and also reserving and excepting from this conveyance the right of way granted by said first-mentioned act of Congress to the said State of Oregon through the lands of the United States and also a right of way one hundred feet in width upon each side of the center line of the travelled road of the party of the first part wherever the same runs through or is constructed or located upon the lands granted by said act of Congress, together with suitable and sufficient grounds, to be selected by the party of the first part or its assigns, for the purposes of toll-houses, depot grounds, water-tanks, switches, warehouses, or turnouts for a railroad should one be constructed over said route: To have and to hold the lands hereby granted unto the said party of the
second part, his heirs and assigns, forever, subject to the reserva-
81 tions hereinbefore contained and subject also to the covenants, con-
ditions, and reservations hereinafter contained.

And whereas the governor of the State of Oregon within the time limited by law certified to the Secretary of the Interior that the road of the party of the first part had been constructed for the distance of about *x*460 miles, and whereas the amount of about 363,000 acres of land under said grant has been listed in accordance with law and the lists approved by the Secretary of the Interior, as will more fully appear by reference to said lists from one to twelve inclusive now on file in the office of the secretary of state of the State of Oregon, and whereas as the United States surveys

shall be extended along the line of said road it will be necessary for the owners of said grant to select, list, and cause to be approved the lands through which the said party of the first part or its assigns will be entitled under said acts, and whereas such selection, listing, and approval is attended with costs and expenses, this conveyance is upon the express condition and the said party of the second part hereby covenants for himself and his assigns that if said party of the first part shall remain the owner of such remaining undivided one-half of said grant or any portion thereof the listing of the unlisted portion of said grant shall be made under the supervision of the party of the first part and in any event the said party of the second part, his heirs or assigns, shall bear and pay the one-half of all costs and expenses of selecting, listing, and procuring the approval of said lands hereby conveyed shall be and remain subject to such costs
82 and expenses. And whereas said lands so far as listed and approved are subject to taxation it is hereby agreed that the said party of the second part, his heirs and assigns, shall promptly pay one-half of all taxes hereafter legally assessed against the said lands or any of them, so as not to involve the remaining one-half in costs, expenses, or litigation.

And if the said party of the first part shall so demand at any time after the expiration of sixty days from the date hereof said lands shall be valued, graded, and placed in the market for sale in the manner following, that is to say, the said "Oregon Central Military Road Company shall select one appraiser and said party of the second part shall select one appraiser to go upon said lands and ascertain the quality and value thereof and grade said lands and fix the price at which the same may be sold, and if such two appraisers shall fail to agree upon the price to be fixed upon said lands the two may choose a third to act with them, who shall in like manner proceed to ascertain the value of said lands, and thereafter any two of such three appraisers may fix and determine the value of said lands, and thereupon, if either party desire it, such lands shall be offered for sale for the price so agreed upon and sales may be negotiated by the said party of the first part, its officers or agents, and by the party of the second part, his heirs, assigns, agents, or attorneys at the price so fixed, and the conveyance therefor shall be executed at the office of the company at Portland, Oregon, and the party of the second part, his heirs or assigns, shall constitute some person residing at the city of Portland, Oregon, an attorney in fact, with full power under the laws of Oregon to execute all
83 necessary deeds for said lands, and the proceeds of such sales, after deducting the costs and expenses of sales and conveyancing without commissons to either party, shall be divided equally between the party of the first part or its assigns and the party of the second part, his heirs or assigns.

Provided, however, that if the said party of the second part shall, after being notified for thirty days that the party of the first part has selected such appraiser upon its part, shall neglect or fail to select such appraiser on his part, his heirs or assigns shall be deemed to have waived the right to appoint such appraiser, and such neglect shall be deemed a consent that the appraiser so selected by the party of the first part shall act alone in making such appraisements and fixing the prices of said lands, and thereupon said single appraiser may proceed to ascertain the value of said lands and fix the value and price thereof, and thereupon said lands shall be sold at such price, in the manner hereinbefore specified, and the party of the first part shall pay the one-half of the costs and expenses of such appraisement and valuation, and the party of the second part shall pay one-half of such costs and expenses.

And it is further covenanted and agreed that neither the party of the first part, its successors or assigns, nor the party of the second part, his heirs or assigns, shall, within five years from the date hereof, without the consent of the other party, his or its heirs, successors, or assigns first had, institute or maintain any suit or proceeding in any of the courts of the
State of Oregon, or of the United States within the State or dis-
84 trict of Oregon, for a partition, division, or sale of said lands, and
this covenant shall be a complete defense to any such suit or proceeding. The party of the first part covenants with the party of the second part, his heirs or assigns, upon demand of the party of the second part, his heirs or assigns, at any time before the dissolution of the party of the first part, to execute to the party of these cond part, his heirs or assigns, any proper assignment, release, or quit-claim deed, or other instrument in writing at the proper cost of the party of the second part, his heirs or assigns, necessary or proper to carry out or effectuate the object of this conveyance, to wit, the conveyance to the party of the second part of the undivided one-half of the title and interest of the party of the first part in and to the grant of lands made by said several acts of Congress and of the legislative assembly of the State of Oregon, or which said party of the second part, his heirs or assigns, shall be advised by counsel learned in the law to be so necessary or proper for the purpose aforesaid.

In witness whereof the said party of the first part has caused its corporate seal to be affixed to these presents, and the same to be signed by its president and secretary by resolution of the board of directors thereof, at the city of Portland, Multnomah County, in the State of Oregon, this 12th day of May, A. D. 1874.

[SEAL.] THE OREGON CENTRAL MILITARY ROAD CO.,
By THEO. WYGANT,
President.
THE OREGON CENTRAL MILITARY ROAD CO.,
By JOHN M. DRAKE,
Secretary.

Executed in presence of—
J. N. DOLPH,
WM. H. WATKINS.

STATE OF OREGON, *Multnomah County, ss:*

Be it remembered that on this 12th day of May, 1874, before me,
the undersigned, a notary public in and for said county and
85 State, personally appeared Theo. Wygant, president of The Oregon
Central Military Road Company, and John M. Drake, secretary of The Oregon Central Military Road Company, whose names are subscribed to the foregoing instrument as parties thereto personally known to me to be the individuals described in and who executed the said instrument, and they severally acknowledged to me that he, the said Theo. Wygant, as president, and he the said John M. Drake, as secretary of the

said Oregon Central Military Road Company, executed the same as and for the act and deed of The Oregon Central Military Road Company freely and voluntarily and for the uses and purposes therein mentioned; and the said John M. Drake being by *me* duly sworn did depose and say that he is the secretary of the said Oregon Central Military Road Company, and resides at Portland, Oregon; that he is the legal custodian of and is acquainted with the corporate seal of said company; that the seal affixed to the foregoing deed is such corporate seal; that the same was so affixed by him as secretary of said company on the 12th day of May, 1874, by order of the board of directors of said company, and that he signed his name as secretary to said conveyance by the like order of said board of directors.

In witness whereof I have hereunto set my name and affixed my seal of office the day and year first above written.

[SEAL.] JAMES A. SMITH,
Notary Public in & for Oregon.

Filed and recorded May 14, 1874. Joel Ware, co. clk.

STATE OF OREGON,
County of Lane, ss:

I, Joel Ware, county clerk of Lane County, Oregon, hereby certify
that I have compared the foregoing transcript with the original
86 deed as recorded in deed book "J," page 264, on May 14, 1874,
Lane County records of deeds, and that it is a true, full, and complete copy, and the whole thereof of said original.

Witness my hand and official seal this 17 day of August, 1889.

[SEAL.] JOEL WARE, *Clerk.*
By W. R. MCCORNACK, *Deputy.*

EXHIBIT "K."

O. C. M. Road Co. to B. J. Pengra.

This indenture, made and entered into this 12 day of October, A. D. 1874, between The Oregon Central Military Road Company, a corporation duly incorporated, organized, and existing under the laws of the State of Oregon, having its principal office and place of business at Portland, Multnomah Co., State of Oregon, the party of the first part, and B. J. Pengra, of Lane County, in the State of Oregon, the party of the second part, witnesseth, that the said party of the first part, The Oregon Central Military Road Company, corporation as aforesaid, in consideration of the sum of seventy-five thousand dollars to it in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, has aliened, remised, released, granted, bargained, and sold, and by these presents it does alien, remise, release, grant, bargain, and sell, and convey unto the said party of the second part, his heirs and assigns, all the right, title, and interest of the said party of the first part in and to all the lands lying and being in the State of Oregon, granted or intended to be granted to the State of Oregon by act of Congress approved July 2d, 1864, entitled "An act granting
lands to the State of Oregon to aid in the construction of a military
87 road from Eugene City to the eastern boundary of said State," and
by an act of Congress approved December 26, 1866, entitled "An act to amend an act entitled 'An act granting lands to the State of Oregon

to aid in the construction of a military road from Eugene City to the eastern boundary of said State,'" and granted or intended to be granted by the State of Oregon to the said Oregon Central Military Road Company by an act of the legislative assembly of said State approved October 24th, 1864, entitled "An act donating certain lands to the Oregon Central Military Road Company, which several acts are hereby made a part hereof, and all the right, title, and interest acquired by the party of the first part, under the said several acts hereinbefore referred to, and also all future right, title, and interest, claim, property, and demand which the party of the first part may at any time hereafter acquire to any lands by virtue of any further compliance with the requirements of said acts or otherwise (but said party of the first part does not undertake, covenant, or agree to perform any act or thing in that behalf, or assume any obligation therein), together with the appurtenances. It is the intention of the party of the first part to convey to the party of the second part the undivided one-half of all right, title, and interest acquired by it under said acts, being its remaining interest in and to the premises hereinbefore described, together with any and all future interest that it may hereafter acquire by virtue of any further compliance with any of said several acts referred to, reserving and excepting from this conveyance, however, all sales of lands heretofore made by the party of the first part, not exceeding the undivided half
88 and seven thousand acres; and also reserving and excepting from this conveyance the wagon-road of the party of the first part leading from Eugene City by way of the Middle Fork of the Willamette River to the eastern boundary of the State, and the right of way granted by the said first-mentioned act of Congress to the said State of Oregon through the lands of the United States, and also a right of way for one hundred feet in width upon each side of the center line of the road of the party of the first part wherever the same runs through or is constructed or located upon the lands granted by said acts of Congress, together with suitable and sufficient grounds, to be selected by the party of the first part, or its assigns, for the purpose of toll-houses, depots, grounds, water-tanks, switches, warehouses, or tunnels for a railroad, should the same be constructed over said route.

To have and to hold the lands hereby granted unto the said party of the second part, his heirs and assigns, forever, subject to the reservations hereinbefore contained. And the party of the second part hereby assumes and covenants to pay all taxes that are due or to which said premises are liable for the present fiscal year.

In witness whereof the said party of the first part has caused its corporate seal to be affixed to these presents and the same to be signed by its president and secretary by resolution of its board of directors thereof at the city of Portland, Multnomah County, State of Oregon, this 12th day of October, 1874.

THE OREGON CENTRAL MILITARY ROAD CO.,
By THEO. WYGANT, *President.*
THE OREGON CENTRAL MILITARY ROAD CO.,
[SEAL.] By JOHN M. DRAKE, *Secretary.*

Executed in presence of—
J. N. DOLPH.
JOSEPH SIMON.

89 STATE OF OREGON,
County of Multnomah, ss:

Be it remembered that on this 12th day of October, 1874, before me, the undersigned, a notary public in and for the said county of Multnomah and State of Oregon, duly commissioned and qualified, personally came Theo. Wygant, president of the Oregon Central Military Road Company, and John M. Drake, secretary of the Oregon Central Military Road Company, whose names are subscribed to the foregoing indenture as parties thereto, and as the president and secretary of said Oregon Central Military Road Company, both personally known to me to be the individuals named and described in and who executed the same indenture, and they severally acknowledge that he, the said Theo. Wygant, as president, and he, the said John M. Drake, as secretary of the Oregon Central Military Road Company, executed the foregoing conveyance as and for the act and deed of the said Oregon Central Military Road Company freely and voluntarily and for the uses and purposes therein mentioned, and the said John M. Drake, being by me duly sworn, did depose and say that he is the secretary of the Oregon Central Military Road Company, and resides at Portland, Oregon; that he is the legal custodian of and has in his possession and is acquainted with the corporate seal of the said Oregon Central Military Road Company; that the seal affixed to the foregoing conveyance is such corporate seal, and that the same was so affixed by him as secretary of said company on the 12th day of October, 1874, by order of the board of directors of said company; and that he signed his name as secretary thereto by the like order of said board of directors.

In witness whereof I have hereunto set my hand and affixed my official seal the date above written.

90 [SEAL.] JOSEPH SIMON,
Notary Public for Oregon.

Filed and recorded October 20, 1874. Joel Ware, co. clk.

STATE OF OREGON, *County of Lane, ss:*

I, Joel Ware, county clerk of Lane County, Oregon, hereby certify that I have compared the foregoing transcript with the original deed as recorded in deed book "J," pages 379, recorded October 20, 1874, in Lane County records of deeds, and that it is a true, full, and complete copy, and the whole thereof of said original.

Witness my hand and official seal this 17th day of August, 1889.

[SEAL] JOEL WARE, *Clerk,*
By W. R. MCCORNACK, *Deputy.*

EXHIBIT "L."

B. J. Pengra to G. W. Colby et al.

This indenture, made and entered into this 15th day of May, A. D. 1874, by and between B. J. Pengra and C. E. Pengra, his wife, of Lane County, State of Oregon, the parties of the first part, and G. W. Colby, of Butte, Butte County, in the State of California, John Boggs, of Colusa County, in said State, N. D. Rideout, of Yuba County, State aforesaid,

W. H. Parks and R. F. Parks, of said Yuba County, Edgar Mills, of Sacramento County, in said State, E. B. Pond, of San Francisco, Nicholas Lenning, of said San Francisco, W. C. Belcher, of Marysville, California, and F. B. Simpson, of the city of Oakland, Alameda County, in the said State of California, the parties of the second part, witnesseth, that
91 in consideration of the sum of one hundred thousand dollars gold coin of the United States to them in hand pai , the receipt whereof is hereby acknowledged, the said parties of the first part have aliened, released, granted, bargained, sold, and by these presents do alien, release, grant, bargain, sell, and convey unto the said parties of the second part, their heirs and assigns, in the proportions hereinafter specified, the equal undivided one-half of all and singular of lands lying and being in the State of Oregon, granted or intended to be granted to the State of Oregon by act of Congress approved July 2d, 1864, entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State," and by an act of Congress approved December 26, 1866, entitled "An act to amend an act entitled an act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of the State," and granted by the State of Oregon to the said Oregon Central Military Road Company by an act of the legislative assembly of said State approved October 24, 1864, entitled "An act donating certain lands to the Oregon Central Military Road Company, and the undivided one-half of the right, title, and interest acquired by the said Oregon Central Military Road Company to said grant of lands under the several acts aforesaid, whether listed and approved, or otherwise. Also the undivided one-half of all future right, title, interest, claim, property, and demand which the said Oregon Central Military Road Company may at any time hereafter acquire to any lands by virtue of any further compliance with the requirements of said acts of Congress, together with the hereditaments
92 and appurtenances. Reserving and excepting from this conveyance however all sales of said lands heretofore made by the said Oregon Central Military Road Company, not exceeding seven thousand acres. And also reserving and excepting from this conveyance the right of way granted by said first mentioned acts of Congress to the said State of Oregon through the lands of the United States, and also a right of was for one thousand feet in width upon each side of the center line of the travelled road of the said Oregon Central Military Road Company wherever the same runs through or is constructed or located upon the lands granted by said acts of Congress, together with suitable and sufficient grounds for the purpose of toll houses, depot grounds, water tanks, switches, warehouses, or turn-outs for a railroad should one be constructed over said route: to have and to hold all and singular the lands and remises hereby conveyed, to wit, said undivided one-half of all the above-described grant of land listed and to be listed and all the right, title, and interest of the party of the first part therein, together with all and singular the hereditaments and appurtenances thereunto belonging, unto the said parties of the second part, their heirs and assigns forever, as tenants in common thereof, in the following proportion, that is to say: to the said G. W. Colby, John Boggs, N. D. Rideout, Edgar Mills, E. B. Pond, Nicholas Lenning, W. H. Parks, W. C. Belcher, and F. B. Simpson, each an undivided one-tenth part of

said undivided one-half thereof and to the said W. H. Parks and R. F. Parks jointly a like undivided one-tenth of said undivided one-half thereof free from all claim, interest, right, or demand of the said parties of 93 the first part of, in, or to the same, but subject nevertheless to all and singular the reservations, covenants, and conditions contained in the deed of conveyance of the lands herein described and conveyed, heretofore executed by the Oregon Central Military Road Company to the said B. J. Pengra, dated May 12, 1874. The lands hereby granted and conveyed or intended to be conveyed are the same lands designated and described in the above-mentioned deed from the Oregon Central Military Road Company to the said B. J. Pengra, and all and singular the right, title, and interest acquired by the parties of the first part herein or to said lands is hereby intended to be conveyed to the parties of the second part herein, subject, however, to the said covenants and conditions, reservations, and exceptions therein contained.

In witness whereof the parties of the first part have hereunto set their hands and seals the date above written.

B. J. PENGRA. [SEAL.]
C. E. PENGRA. [SEAL.]

Executed in presence of—
JOEL WARE,
A. S. McCLURE.

STATE OF OREGON, *County of Lane, ss:*

This certifies that on this 15th day of May, A. D. 1874, before me, the undersigned, a county clerk in and for said county and State, personally appeared B. J. Pengra and C. E. Pengra, his wife, to me personally known to be the identical persons described in and who executed the foregoing conveyance, and acknowledged to me that they executed the same, and the said C. E. Pengra, wife of the said B. J. Pengra, on a private examination by me made separate and apart from her said husband, acknowledged to me that she executed the same freely and voluntarily and without fear or compulsion from any one.

94 In witness whereof I have hereunto set my hand and official seal this 15th day of May, A. D. 1874.

JOEL WARE, [SEAL.]
County Clerk.

Recorded May 15, 1874, Joel Ware, Co. Clk.

STATE OF OREGON, *County of Lane, ss:*

I, Joel Ware, county clerk of Lane County, Oregon, hereby certify that I have compared the foregoing transcript with the original deed as recorded in deed book "J," page 268, recorded May 15th, 1874, Lane County records of deeds, and that it is a true, full, and complete copy, and the whole thereof, of said original.

Witness my hand and official seal this 17th day of August, 1889.

[SEAL.]
JOEL WARE, *Clerk.*
By W. R. McCORNACK,
Deputy.

95

EXHIBIT M.

B. J. Pengra to G. W. Colby et al.

This indenture, made and entered into this 15th day of October, A. D. 1874, by and between B. J. Pengra and C. E. Pengra, his wife, of Lane County in the State of Oregon, the parties of the first part, and G. W. Colby, Nicholas Lenning, E. B. Pond, J. M. Peck, Isaac Allen, B. F. Baker, M. P. Jones, C. H. Holbrook, W. C. Belcher, N. D. Rideout, and Isaac Lohamn, all of the State of California, the parties of the second part, witnesseth: That in consideration of the sum of one hundred thousand dollars, gold coin of the United States, to them in hand paid, the receipt whereof is hereby acknowledged, the said parties of the first part have aliened, released, granted, bargained, sold, and by these presents they do alien, release, grant, bargain, sell, and convey unto the said parties of the second part, their heirs and assigns, in proportions hereafter specified, the equal undivided one-half ($\frac{1}{2}$) of all and singular the lands lying and being in the State of Oregon granted or intended to be granted to the State of Oregon by act of Congress, approved July 2d, 1864, entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State," and by an act of Congress, approved Dec. 26, 1866, entitled "An act to amend an act granting lands to the State of Oregon in the construction of a military road from Eugene City to the eastern boundary of said State, and granted or intended to be granted by the State of Oregon to the Central Military Road Company by an act of the legislative assembly of said State, approved Oct. 24th, 1864, entitled An act donating certain lands to the Oregon Central Military Road Company, whether listed or to be listed,
96 which several acts are hereby made part hereof. And all the right,
title, and interest acquired by the parties of the first part under a certain conveyance executed to said B. J. Pengra by said Oregon Central Military Road Company upon the 12th day of October, A. D. 1874, or otherwise in and to said lands, and all dower and right of dower of said C. E. Pengra, and also all the right, title, and interest which may be hereafter acquired by the said parties of the first part and to which they may become entitled by any further compliance with the requirements of said acts or either of them by said Oregon Central Military Road Company. Reserving and excepting, however, the lands heretofore sold by said company not exceeding seven thousand acres. Also reserving and excepting from this conveyance the right of way granted by said just-mentioned act of Congress to the State of Oregon through the lands of the United States and also a right of way for one hundred feet in width upon each side of the center line of the traveled road of the said Oregon Central Military Road Company wherever the same runs through or is constructed or located upon the lands granted by said acts of Congress, together with suitable and sufficient grounds to be selected by the said Oregon Central Military Road Company its successors and assigns for the purpose of toll-houses, depots, grounds, water-tanks, switches, warehouses, or turn-outs for a railroad, should one be constructed over said route. To have and to hold all and singular the lands and premises hereby conveyed, to wit, said

undivided one-half of all the above-described grant of lands listed and to be listed, and all the right, title, and interest of the party of the first part therein.

97 Together with all and singular the tenements, hereditaments, and appurtenances belonging unto the said parties of the second part, in the following proportions, that is to say: To the said G. W. Colby, four-twentieths; to the said Nicholas Lenning, E. B. Pond, J. M. Peck, Isaac Allen, B. F. Baker, and M. P. Jones, two-twentieths each; and to the said C. H. Holbrook, W. C. Belcher, N. D. Rideout, and Isaac Lohman, one-twentieth each, from all claim and demand of the parties of the first part and all persons claiming under them.

In witness whereof the parties of the first part have hereunto set their hands and seals the day and date first above written.

B. J. PENGRA. [SEAL.]
C. E. PENGRA. [SEAL.]

In presence of—
P. G. KIOCH,
E. V. PENGRA.

STATE OF OREGON, *County of Marion, ss:*

Be it remembered that on this 15th day of October, A. D. 1874, personally came before me, B. J. Pengra, and C. E. Pengra, his wife, known to me to be the persons described in and who executed the foregoing deed, and acknowledged to me that they executed the same, and the said C. E. Pengra, upon a private examination separate and apart from her husband, acknowledged that she executed the same freely and voluntarily and without fear or compulsion from any one. In testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.

[SEAL.] PETER G. KOCH,
Notary Public, Marion County, Or.

Recorded Oct. 21, 1874, Joel Ware, co. clk.

98 STATE OF OREGON,
County of Lane, ss:

I, Joel Ware, county clerk of Lane County, Oregon, hereby certify that I have compared the foregoing transcript with the original deed as recorded in deed book "J," page 382, recorded Oct. 21st, 1874, Lane County records of deeds, and that it is a true, full, and complete copy, and the whole thereof of said original.

Witness my hand and official seal this 17 day of August, 1889.

[SEAL.] JOEL WARE, *Clerk,*
By W. R. MCCORNACK, *Deputy.*

EXHIBIT "N."

This indenture, made and entered into this day of A. D. 187 by and between G. W. Colby and C. A. Colby, his wife, of Butte County, W. H. Parks and Annie W. Parks, his wife, and N. D. Rideout and Phebe M. Rideout, his wife, and W. C. Belcher, of Yuba County, John Boggs and Lou E. Boggs, his wife, of Colusa County, Edgar Mills and

Maggie M. Mills, his wife, and Robert Hamilton and Mary Hamilton, his wife, and James Carolan and Emily Carolan, his wife, of Sacramento County Nicholas Lunning, and E. B. Pond and Sarah C. Pond, his wife, and M. P. Jones and Flora D. Jones, his wife, and Isaac Allen, of the city and county of San Francisco; T. B. Simpson and Mary H. Simpson, his wife, and Orrin owell and Kate E. Gowell, his wife, and B. F. Baker and Mary B. Baker, his wife, of Oakland in Alemeda County, and Isaac Lohman and Fanny E. Lohman, of San Francisco, and J. M. Peck
99 and of San Francisco County, R. F. Parks and The-
dera E. Parkes, his wife, of the city and county of San Francisco, all in the State of California, and A. D. Breed and of County, State of , parties of the first part, and the California and Oregon Land Company, a corporation doing business in the State of California and Oregon, and having its principal place of business in the city of San Francisco, State of California, party of the second part.

Witnesseth: That in consideration of one dollar to each of us in hand paid the said parties of the first part have aliened, released, granted, bargained, sold, and by these presents do alien, release, grant, bargain, sell, and convey unto the said party of the second part its successors and assigns forever, all and singular those certain lands lying and being in the State of Oregon, granted or intended to be granted to the State of Oregon by act of Congress approved July 2nd, 1864, entitled "An act granting lands to the State of Oregon, to aid in the construction of a military road from Eugene City to the eastern boundary of said State," and by an act of Congress approved December 26th, 1866, entitled "An act to amend an act entitled an act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State," and granted by the State of Oregon to the said Oregon Central Military Road Company by an act of the legislative assembly of said State approved October 24th, 1864, entitled "An act donating certain lands to the Oregon Central Military Road Company," and all the rights, title, and interest acquired by the said Oregon Central Military Road Company to said grant of lands under the several acts aforesaid whether listed
100 and approved or otherwise. And also all the right, title, and
interest which may be hereafter acquired by the said parties of the first part or their grantors by virtue of any further compliance with the requirements of said acts or any or either of them by said Oregon Central Military Road Company. Reserving and excepting, however, the lands heretofore sold by said Oregon Central Military Road Company not exceeding seven thousand acres. And also reserving and excepting from this conveyance the right of way grant by said first mentioned act of Congress to the said State of Oregon through the lands of the United States. And also a right of way for one hundred feet in width upon each side of the center line of the traveled road of the said Oregon Central Military Road Company whereof the same runs through or is constructed or located upon the lands granted by said acts of Congress together with suitable and sufficient grounds to be selected by the said Oregon Central Military Road Company, its successors and assigns for the purpose of toll houses, depot grounds, water tanks, switches, warehouses, or turnouts for a railroad should one be constructed over said route. To have and to hold all and singular the lands and premises hereby conveyed, to wit, all of the lands

of said grant whether listed or to be listed to said State of Oregon or to said Oregon Central Military Road Company and all the right, title, and interest of the parties of the first part acquired or to be acquired in the premises hereinbefore described unto the party of the second part its successors and assigns forever.

Together with all and singular the hereditaments and appurtenances thereunto belonging or in any wise appertaining.

101 In witness whereof the parties of the first part have hereunto set their hands and seals the day and year in this indenture first written.

G. W. Colby.	[SEAL.]	Frora D. Jones.	[SEAL.]
C. A. Colby.	[SEAL.]	B. F. Baker.	[SEAL.]
W. H. Parks.	[SEAL.]	Mary B. Baker.	[SEAL.]
Annie W. Parks.	[SEAL.]	T. B. Simpson.	[SEAL.]
N. D. Rideout.	[SEAL.]	Mary H. Simpson.	[SEAL.]
Phebe M. Rideout.	[SEAL.]	Theodora E. Parks.	[SEAL.]
Edgar Mills.	[SEAL.]	R. F. Parks.	[SEAL.]
Maggie M. Mills.	[SEAL.]	Orrin Gowell.	[SEAL.]
Isaac Allen.	[SEAL.]	Kate E. Gowell.	[SEAL.]
W. C. Belcher.	[SEAL.]	John M. Peck.	[SEAL.]
E. B. Pond.	[SEAL.]	James Carolan.	[SEAL.]
Sarah C. Pond.	[SEAL.]	Emily Carolan.	[SEAL.]
Isaac Lohman.	[SEAL.]	Nicholas Lunning.	[SEAL.]
Fannie E. Lohman.	[SEAL.]	Robert Hamilton.	[SEAL.]
John Boggs.	[SEAL.]	Mary Hamilton.	[SEAL.]
M. P. Jones.	[SEAL.]	Lou E. Boggs.	[SEAL.]

State of California,
City and County of San Francisco, ss:

On the third day of March, A. D. one thousand eight hundred and seventy-seven, before me, the undersigned, a commissioner of deeds for the State of Oregon, residing in the city and county of San Francisco, California, duly commissioned and sworn, personally appeared Edgar Mills and Maggie M. Mills, his wife, E. P. Pond and Sarah C. Pond, his wife, Isaac Allen, W. C. Belcher, Isaac Lohman and Fannie E. Lohman, his wife, John Boggs, M. P. Jones and Flora D. Jones, his wife, B. F. Baker and Mary B. Baker, his wife, and on the twenty-third day of March, A. D. one thousand eight hundred and eighty-seven, personally
102 appeared T. B. Simpson and Mary H. Simpson, his wife, R. F. Parks and Theodora E. Parks, his wife, Orrin Gowell and Kate E. Gowell, his wife, and on the twenty-seventh day of March, A. D. one thousand eight hundred and seventy-seven, personally appeared John M. Peck, and on the ninth day of April, A. D. one thousand eight hundred and seventy-seven, personally appeared James M. Carolan and Emily Carolan, his wife, and Nicholas Lunning, personally known to me to be the identical individuals described in and who executed the foregoing instrument, and whose names are surscribed to the foregoing instrument, and they severally acknowledged to me that they executed the same freely and voluntarily and for the uses and purposes therein mentioned, and the said Maggie M. Mills, wife of the said Edgar Mills, and the said Sarah A. Bond, wife of the said E. B. Pond, and the said Fannie E. Lohman, wife of the said Isaac Lohman, and the said Frora D. Jones, wife of the said

M. P. Jones, and the said Mary B. Baker, wife of the said B. F. Baker and the said Mary H. Simpson, wife of the said F. B. Simpson, and the said Theodora E. Parks, wife of R. F. Parks, aforesaid, and the said Kate E. Gowell, wife of Orrin Gowell aforesaid, and the said Emily Carolan, wofe of James W. Carolan aforesaid, upon a private examination, severally separate and apart from their respective husbands aforesaid, each acknowledged to me that she executed the foregoing instrument freely and voluntarily and without fear or compulsion of her husband or of any one.

In witness whereof I have hereunto set my hand and official seal this ninth day of April, A. D. one thousand eight hundred and seventy-seven.

[SEAL.] WILLIAM HARNEY,
Commissioner of Deeds for the State of Oregon, residing in San Francisco, California.

103 STATE OF CALIFORNIA, *County of Yuba, ss:*

On this 8th day of January, A. D. 1877, before me, L. R. Sellon, a commissioner of deeds for the State of Oregon, residing in Marysville, State of California, duly commissioned and sworn, personally appeared W. H. Parks and Annie W. Parks, his wife, known to me to be the persons whose names are subscribed to the within instrument, and they acknowledged to me that they duly executed the same; and the said Annie W. Parks, wife of the said W. H. Parks, upon a private examination separate and apart from her husband, acknowledged to me that she executed the same freely and voluntarily and without fear or compulsion from any one.

In witness whereof I have hereunto set my hand and affixed my official seal the day and year in this certificate above written.

[SEAL.] L. R. SELLON,
Commissioner of Deeds for Oregon, Marysville, California.

STATE OF CALIFORNIA, *County of Yuba, ss:*

On this 20th day of January, A. D. 1877, before me, L. R. Sellon, a commissioner of deeds for the State of Oregon, residing in Marysville, State of California, duly commissioned and sworn, personally appeared G. W. Colby and C. A. Colby, his wife, known to me to be the persons whose names are subscribed to the within instrument, and they acknowledged to me that they executed the same. And the said C. A. Colby, wife of the said G. W. Colby, upon a private examination separate and apart from her husband, acknowledged to me that she executed the same freely and voluntarily and without fear or compulsion from any one.

104 In witness whereof I have hereunto set my hand and affixed my official seal the day and year in this certificate above written.

[SEAL.] L. R. SELLON,
Commissioner of Deeds for Oregon, Marysville, California.

STATE OF CALIFORNIA, *County of Yuba, ss:*

On this 8th day of January, A. D. 1887, before me, L. R. Sellon, a commissioner of deeds for the State of Oregon, residing in Marysville, State of California, duly commissioned and sworn, personally appeared

N. D. Rideout and Phebe M. Rideout, his wife, known to me to be the persons whose names are subscribed to the foregoing instrument, and they acknowledged to me that they duly executed the same. And the said Phebe M. Rideout, wife of the said N. D. Rideout, upon a private examination separate and apart from her husband, acknowledged to me that she executed the same freely and voluntarily and without fear or compulsion from any one.

In witness whereof I have hereunto set my hand and affixed my official seal the day and year in this certificate above written.

[SEAL.] L. R. SELLON,
Commissioner of Deeds for Oregon, Marysville, California.

STATE OF CALIFORNIA, *County of Sacramento, ss:*

On this eleventh day of April, A. D. 1877, before me, Edward Cadwalader, a commissioner of deeds for the State of Oregon, residing in Sacramento, State of California, duly commissioned and sworn, personally appeared Robt. Hamilton and Mary Hamilton, his wife, known to me
105 to be the persons whose names are subscribed to the within instrument, and they acknowledged to me that they duly executed the same. And the said Mary Hamilton, wife of the said Robt. Hamilton, upon a private examination separate and apart from her husband, acknowledged to me that she executed the same freely and voluntarily and without fear or compulsion from any one.

In witness whereof I have hereunto set my hand and affixed my official seal the day and year in this certificate above written.

[SEAL.] EDW. CADWALADER,
Commissioner of Deeds for Oregon, Sacramento, California.

STATE OF OREGON,
City and County of San Francisco, ss:

On this twenty-seventh day of April, A. D. 1877, before me, the undersigned, a commissioner of deeds for the State of Oregon, residing in San Francisco, California, duly commissioned and sworn, personally appeared Lou E. Boggs, wife of John Boggs, known to me to be the person described in and who executed the foregoing instrument, and acknowledged to me that she executed the same freely and voluntarily and for the uses and purposes therein mentioned; and the said Lou E. Boggs, wife of the said John Boggs, on a private examination separate and apart from her husband, acknowledged to me that she executed the same freely and voluntarily and for the uses and purposes therein mentioned and without fear or compulsion from any one.

In witness whereof I have hereunto set my hand and official seal this twenty-seventh day of April, A. D. 1877.

[SEAL.] WILLIAM HARNEY,
Commissioner of Deeds for the State of Oregon,
Residing in San Francisco, California.

106 STATE OF OREGON, *County of Lane:*

I hereby certify that the foregoing deed was duly recorded by me in Lane County record of deeds, Vol. L, page 263, on the 24th day of Nov., 1877.

[SEAL.] JOEL WARE,
Clerk of Lane County, Oregon.

STATE OF OREGON, *County of Lake, ss:*

I hereby certify that the foregoing deed was duly recorded by me in Lake County record of deeds, Vol. 1st, pages 239, 240, & 241, on the 22nd day of December, 1877.

B. F. HATTON,
Clerk of Lake County, Oregon.

Recd. for record, Mar. 1st, 1878, at 2 o'clock p. m.

STATE OF OREGON, *County of Grant, ss:*

I, Phil Mitschan, county clerk for Grant County, State of Oregon, and ex officio clerk of the circuit court for said county and State, do hereby certify that the foregoing transcript of deed from G. W. Colby et al. to the California and Oregon Land Company, recorded Vol. "G," on pages 103 to 108, record of deeds for Grant County Oregon Mar. 1st, 1878, at 2 o'clock p. m., has been by me compared with the original and that it is a true and correct copy of said original deed and of the whole thereof as the same appears of record in my office and custody.

Witness my hand and seal of the said court this 16th day of Aug., 1889.

[SEAL.]

PHIL METSCHAN,
Clerk,
By J. D. SUTHERLAND,
Deputy Clerk.

107 And afterwards, to wit, on the 30th day of August, 1889, there was issued out of said court a subpœna ad respondendum in words and figures as follows, to wit:

108 DISTRICT OF OREGON, *ss:*

I certify that on the 12th day of Oct., 1889, at Eugene, in Lane County, in said district, I duly served the within subpœna ad respondendum upon the therein-named B. J. Pengra, by exhibiting said subpœna to him, and by delivering to him personally a true copy of said subpœna duly certified to by me as U. S. marshal, together with a copy of the complaint in the within-entitled cause, duly certified to by the clerk of the circuit court for said district.

JOHN MYERS,
United States Marshal.
By W. W. COCHRAN,
Deputy.

109 DISTRICT OF OREGON, *ss:*

I certify that on the 20th day of September, 1889, at Springfield, Lane County, in said district, I duly served the within summons upon the therein-named C. E. Pengra, by delivering to her personally a true copy of said summons, duly certified to by me as U. S. marshal.

JOHN MYERS,
United States Marshal.
By H. C. MYERS,
Deputy.

110 DISTRICT OF OREGON, *ss:*

I certify that on the 2d day of Sept., 1889, at Portland, Multnomah County, in said district, I duly served the within summons upon the therein-named Oregon Central Military Road Co., by delivering to J. M. Drake, secretary, personally, a true copy of said summons duly certified to by me as U. S. marshal, together with a copy of the complaint in the within-entitled suit, duly certified to by the clerk of the U. S. circuit court for said district.

JOHN MYERS,
United States Marshal.
By C. N. WAIT,
Deputy.

111 In the circuit court of the United States for the district of Oregon.

THE UNITED STATES, COMPLAINANT,
vs.
THE OREGON CENTRAL MILITARY ROAD Company, B. J. Pengra, C. E. Pengra, G. W. Colby, John Boggs, N. D. Rideout, W. H. Parks, R. F. Parks, Edgar Mills, E. B. Pond, Nicholas Lunning, W. C. Belcher, F. B. Simpson, J. W. Peck, Isaac Allen, B. F. Baker, M. P. Jones, D. H. Holbrook, Isaac Lohman, A. D. Breed, and the California and Oregon Land Company, defendants.
} No. 1632. In equity.

Subpœna ad respondendum.

The President of the United States of America to the Oregon Central Military Road Company, B. J. Pengra, C. E. Pengra, G. W. Colby, John Boggs, N. D. Rideout, W. H. Parks, R. F. Parks, Edgar Mills, E. B. Pond, Nicholas Lunning, W. C. Belcher, F. B. Simpson, J. W. Peck, Isaac Allen, B. F. Baker, M. P. Jones, D. H. Holbrook, Isaac Lohman, A. D. Breed, and the California and Oregon Land Company, greeting:

You and each of you are hereby commanded that you be and appear in said circuit court of the United States, at the court-room thereof, in the city of Portland, in said district, on the first Monday of October next, which will be the 7th day of October, A. D. 1889, to answer the exigency of a bill of complaint exhibited and filed against you in our said court, wherein the United States is complainant and you are defendants, and further to do and receive what our said circuit court shall consider in this behalf, and this you are in nowise to omit under the pains and penalties of what may befall thereon.

And this is to command you, the marshal of said district, or your deputy, to make due service of this our writ of subpœna and to have then and there the same.

Hereof fail not.

Witness the honorable Melville W. Fuller, Chief-Justice of the Supreme Court of the United States, and the seal of our said circuit court, affixed at Portland, in said district, this 30th day of August, in the year of our Lord one thousand eight hundred and eighty-nine, and of the Independence of the United States the one hundred and ———

{ SEAL OF THE U. S. CIRCUIT COURT, DISTRICT OF OREGON. }

R. H. LAMSON,
Clerk.
By R. B. LAMSON,
Deputy Clerk.

Memorandum pursuant to equity rule No. 12 of the Supreme Court of the United States:

The defendant is to enter his appearance in the above-entitled suit in the office of the clerk of said court on or before the day at which the above writ is returnable; otherwise the complainant's bill therein may be taken *pro confesso.*

(Indorsed:) No. 1632. In the circuit court of the United States for the district of Oregon. In equity. The United States vs. Oregon Central Military Road Co. et al. Subpœna ad respondendum. (Endorsed:) Returned and filed April 17, 1890. R. H. Lamson, clerk. By R. B. Lamson, deputy clerk.

112 And afterwards, to wit, on the 17th day of September, 1889, there was duly filed in said court a præcipe for appearance of defendants in words and figures as follows, to wit:

113 In the circuit court of the United States for the district of Oregon.

THE UNITED STATES,
vs.
OREGON CENTRAL MILITARY ROAD CO. ET AL. } No. 1632.

To the clerk of the above-entitled court:

You will please enter our appearance as solicitors in the above-entitled cause for the defendants, except B. J. Pengra, C. E. Pengra, and the Oregon Central Military Road Company.

DOLPH, BELLINGER, MALLORY & SIMON,
By C. E. S. WOOD,
Of Counsel.

(Indorsed:) No. 1632. In the circuit court of the United States for the district of Oregon. The United States vs. Oregon Central Military Road Co. et al. Præcipe for appearance of defendants. Filed and entered Sept. 19, 1889. R. H. Lamson, clerk. By D. W. Stevens, deputy.

114 And afterwards, to wit, on the 17th day of September, 1889, there was duly filed in said court a petition for leave to file double pleas in words and figures as follows, to wit:

115 In the circuit court of the United States for the district of Oregon.

THE UNITED STATES, COMPLAINANT,
vs.
E. B. POND ET AL., DEFENDANTS.

Your petitioner, the defendant E. B. Pond, for himself and others of like equity, showeth that the complainant having exhibited its bill in the honorable court against your petitioner, and your petitioner having entered their appearance in the above-entitled suit, your petitioner is now advised that it will be inconvenient and against equity and the full administration of justice to be required to plead singly in this suit; that there are several distinct and separate defenses to the entire subject-matter of the bill, which defenses do not involve the expense, trouble, and delay of making issue on the actual construction of the road and taking testimony in such issue, and your petitioner showeth that he ought to be allowed to enter more than one plea to this bill. Wherefore your petitioner prays for an 116 order allowing him to plead more than one plea to the bill filed herein, to wit:

1. Bona fide purchase.
2. Delays, laches, and estoppel against equity.
3. Effect of the governor's certificates.

DOLPH, BELLINGER, MALLORY & SIMON,
Solicitors for the Def'ts.

(Endorsed:) Filed Sept. 17th, 1889. R. H. Lamson, clerk. By D. W. Stevens, deputy.

117 And afterwards, to wit, on the 2d day of October, 1889, there was duly filed in said court exceptions of defendants N. D. Rideout et al. to bill in words and figures as follows, to wit:

118 In the circuit court of the United States for the district of Oregon.

THE UNITED STATES, PLAINTIFF,
vs.
THE OREGON CENTRAL MILITARY ROAD
Company and others, defendants.

Exceptions taken by N. D. Rideout, Edgar Mills, E. B. Pond, Nicholas Lenning, W. C. Belcher, J. W. Peck, B. F. Baker, M. P. Jones, Isaac Lohman, and the California & Oregon Land Company, defendants herein, to the bill of complaint of the plaintiff.

These defendants. except to all the parts of said bill herein described as being matters not material to said suit, and which can not aid the plaintiff in obtaining the relief sought by said bill, and pray that they may be expunged, with costs, to wit:

First exception:

For that said bill is impertinent from and after the word "effect," in the third line of the third paragraph thereof, to the end of said paragraph.

Second exception:

For that said bill is impertinent from and after the word "same," in the fourth line of the thirteenth paragraph thereof, to the end of said paragraph.

Third exception:

For that the said bill is impertinent in the twenty-first paragraph by containing the words "and maintained," in the ninth line thereof, and the words "or maintained," in the eighteenth and nineteenth lines thereof, and the words "or maintained," in the twenty-first line thereof.

DOLPH, BELLINGER, MALLORY & SIMON,
Solicitors for Defendants above named.

(Endorsed:) Filed Oct. 2, 1889. R. H. Lamson, clerk.

119 And afterwards, to wit, on Monday, the 7th day of October, 1889, the same being the 1st judicial day of the regular October term of said court. Present, the honorable Lorenzo Sawyer, United States circuit judge, presiding, the following proceedings were had in said case, to wit:

120 In the circuit court of the United States for the ninth judicial district of Oregon.

THE UNITED STATES
vs.
THE OREGON CENTRAL MILITARY WAGON Road Company *et al.*
} No. 1632.

OCTOBER 7th, 1889.

This cause was heard upon the motion of certain of the defendants for leave to file more than one plea to the bill, and upon the exceptions of the defendants N. D. Rideout, Edgar Mills, E. B. Pond, Nicholas Lenning, W. C. Belcher, J. W. Peck, B. F. Baker, M. P. Jones, Isaac Lohman, and the California and Oregon Land Company to said bill for impertinance, and was argued by Mr. Lewis L. McArthur, United States attorney, and Mr. William Carey Johnson, special assistant United States attorney, for the plaintiff, and by Mr. Cyrus A. Dolph and Mr. Charles B. Bellinger, of counsel for said defendants; on consideration whereof it is ordered that said motion be, and the same is hereby, allowed, and that said exceptions be, and the same are hereby, sustained.

121 And afterwards, to wit, on the 24th day of October, 1889, there was duly filed in said court a plea and answer of defendant California & Oregon Land Co. in words and figures as follows, to wit:

122 In the circuit court of the United States for the district of Oregon.

THE UNITED STATES, PLAINTIFF,
vs.
THE OREGON CENTRAL MILITARY ROAD Company, B. J. Pengra, C. E. Pengra, G. W. Colby, John Boggs, N. D. Rideout, W. H. Parks, R. F. Parks, Edgar Mills, C. E. Pond, Nicholas Lunning, W. C. Belcher, F. B. Simpson, J. W. Peck, Isaac Allen, B. F. Baker, M. P. Jones, D. H. Holbrook, Isaac Lochman, A. D. Breed, and The California and Oregon Land Company, defendants.

The plea and answer of the defendant, The California and Oregon Land Company.

This defendant, by protestation, not confessing or acknowledging the matters and things in and by said bill set forth and alleged to be true, in such manner and form as the same are thereby and therein set forth and alleged, for plea to the whole of the said bill or to so much and such part of the said bill as prays that the land granted to the State of Oregon by the act of Congress on the 2nd day of July, 1864, and the act amendatory thereof passed on the 26th day of December, 1866, and now owned by this defendant, The California and Oregon Land Company, be decreed forfeited to the United States and restored to the public domain says, that on October 24th, 1864, the legislature of Oregon granted to 123 the defendant, The Oregon Central Military Road Company, all land, right of way, rights, privileges, and immunities granted to the said State of Oregon by said act of Congress of July 2nd, 1864, together with all such lands, rights, privileges, and immunities as might thereafter be granted to said State to aid in the construction of the said road mentioned and provided for in said act of Congress.

That on July 27th, 1866, the governor of Oregon duly certified that in accordance with said act of Congress of October 24th, 1864, and with said act of the legislature of Oregon, he had passed over and carefully examined the first fifty miles of the Oregon Central Military Road Company's road, beginning at Eugene City and extending eastward and towards the southern or eastern boundary of the State of Oregon, and that the first continuous fifty miles of said road, beginning at Eugene City, were completed in accordance with the requirements of said act of Congress and the laws of Oregon.

That on November 26th, 1867, the governor of Oregon duly certified that the section of said military road extending from the point to which it had already been approved, as hereinbefore stated, thence to Crescent Lake in the valley of the Deschutes, being forty-two and one-half miles, more or less, having been carefully inspected and found to be well and faithfully built and fully up to the requirements of the law, and that he had therefore approved and received the same.

That on the 12th day of January, 1870, the governor of Oregon duly certified that said military road had been completed as required by said act of Congress, and the said act of the legislature of Oregon from Eugene City, Oregon, to the eastern boundary of the State.

That each of said several certificates was made honestly and in good faith and without any fraudulent intent or procurement or false representation by any person whomsoever.

124 That the said grant of lands and all rights and interests thereunder
were by sundry mesne conveyances since said last mentioned date,
conveyed and transferred to and vested in this defendant, the California and Oregon Land Company, and that said defendant company has since been and is now the owner in fee of all the lands granted by said act of Congress, save only as to a portion of said lands heretofore conveyed by said defendant and its grantors.

And for a further and second plea to the whole of the said bill, this defendant, the California and Oregon Land Company says: That on October 24th, 1864, the legislature of Oregon granted to the defendant The Oregon Central Military Road Company, all lands, rights of way, rights, privileges and immunities granted to the said State of Oregon by said act of Congress of July 2nd, 1864, together with all such lands, rights, privileges and immunities as might thereafter be granted to said State to aid in the construction of the said road mentioned and provided for in said act of Congress.

That on July 27th, 1866, the governor of Oregon duly certified that in accordance with said act of Congress of October 24th, 1864, and with said act of the legislature of Oregon, he had passed over and carefully examined the first fifty miles of the Oregon Central Military Road Company's road beginning at Eugene City and extending eastward and towards the southern or eastern boundary of the State of Oregon, and that the first continuous fifty miles of said road beginning at Eugene City were completed in accordance with the requirements of said act of Congress and of the laws of Oregon.

That on November 26th, 1867, the governor of Oregon duly cer-
125 tified that the section of said military road extending from the point
to which it had already been approved as hereinbefore stated, thence
to Crescent Lake in the valley of the Deschutes, being forty-two and one-half miles, more or less, having been carefully inspected and found to be well and faithfully built and fully up to the requirements of the law, and that he had therefore approved and received the same.

That on the 12th day of January, 1870, the governor of Oregon duly certified that said military road had been completed as required by said act of Congress and the said act of the legislature of Oregon, from Eugene City, Oregon, to the eastern boundary of the State.

That the Commissioner of the General Land Office, and the Secretary of the Interior, did on the following several dates, to wit: November 13th, 1867, April 21st, 1871, December 8th, 1871, and April 2nd, 1873, execute and deliver to the State of Oregon in pursuance of the said acts of Congress and on account of said road, certified lists of certain of the lands "in place" granted to the State in aid of the construction of said road, which lists embrace an aggregate of above $361{,}327\frac{43}{100}$ acres of such grant.

That on about the 15th day of May, 1874, the defendants G. W. Colby, John Boggs, N. D. Rideout, W. H. Parks, R. F. Parks, Edgar Mills, E. B. Pond, Nicholas Lenning, W. C. Belcher, F. B. Simpson, J. M. Peck, Isaac Allen, B. F. Baker, M. P. Jones, and Isaac Lohman, then residents of the State of California, placing confidence in the truth of the hereinbefore mentioned certificates of the governor of Oregon, that the said road had been duly and seasonably constructed and completed in ac-
126 cordance with the terms of the said granting acts, and also in the
said certified lists did purchase in good faith, and for a valuable consideration, to wit: for the sum of $200,000 from the defendants, B. J. and C. E. Pengra, all the said lands granted in said act of Congress, that said B. J. Pengra claimed at the time to be the owner of said lands by virtue of the deeds to him from the Oregon Central Military Road Company of date respectively May 12th, and October 12th, 1874, which deeds are described in paragraph 18 of the bill of complaint herein and of which the exhibits I and J attached to said bill are copies, that said company at the time of said conveyances was the owner of said grant by grant from the State of Oregon as sat forth in said bill.

And this defendant avers that said sum of $200.00 was paid by said defendants in money, truly and bona fide, and without notice previous thereto, or to the delivery of the conveyances thereof, or of any of the pretended fraudulent representations or acts in the bill of complaint set forth, and without any reason to believe or suspect that there had been any fraudulent act or misrepresentation in the examination or certifying the completion of said road, or any part thereof, or that said road had not been wholly, seasonably, and properly completed in accordance with the requirements of said granting acts.

And this defendant says that said purchasers were the promoters, organizers, and original stock subscribers and holders of the defendant, the California and Oregon Land Company; that said company is duly incorporated under the laws of the State of California for the purpose of taking said land grant, and as a convenient means of managing the property and interests of the said several purchasers in said land grant, and to this end said several purchasers did on March 3rd, 1871, con-
127 vey to said company their several interests in said grant in consid-
eration of the interest and stock in the said corporation severally held by them; that at the time of the said transfer and conveyance to said corporation, neither the said company nor any of its officers, or agents, or stockholders, had any notice or reason to believe or suspect that there had been any fraud or misrepresentation, or failure of duty in the examination or certifying aforesaid, but the transfer to and the taking by said company was had and done really, bona fide, and upon the confidence placed by them and each of them in the truth of the said certificates.

That so confiding and relying and without notice or reason to believe or suspect any of the alleged fraudulent acts or misrepresentations in the bill of complaint charged, the said promoters and the said land company have really and bona fide paid in the care and expense attending said lands the sum of $87,775.10, and in addition thereto have paid in taxes levied under the laws of Oregon the sum of $39,362.12. That there has not been received by said company, or by its stockholders on account of said lands, to exceed the sum of $14,504.64, which sum has been derived from sales and rents of lands thereof. That since the conveyance of said grant and lands to said California and Oregon Land Company, there have been from time to time sales and transfers of the stock of said company to others than its original stockholders, who are now the owners and holders of such stock, and so were at the commencement of this suit; that such purchases have been made by such holders, in the confidence reposed by them in the truth of the said certificates and in reliance upon the said hereinbefore mentioned listing of lands and upon the said act of 128 Congress approved June 18th, 1874, and cited in the 16th paragraph of the bill of complaint herein; that various sums per share up to $20 per share were really and bona fide paid by such purchasers for such stock, without notice by them, or reason to believe or suspect any of the alleged fraudulent acts or misrepresentations in the said bill charged; that said company's capital stock consists of twenty thousand shares which is, and at the beginning of this suit was, held by twenty-five stockholders, of whom only eight were originally stockholders in said company, or are defendants in this suit.

All which matters and things this defendant does aver to be true, and it pleads the said matters in bar to the plaintiff's bill of complaint, and prays the judgment of this honorable court whether it ought to be required to make any other or further answer to said bill and prays to be hence dismissed with its costs and charges in that behalf wrongfully sustained.

DOLPH, BELLINGER, MALLORY & SIMON,
Solicitors for the Defendant, the California and Oregon Land Co.
CALIFORNIA AND OREGON LAND COMPANY,
{CORPORATE SEAL.} By E. B. POND, *President*,
and ABRAHAM HALSEY, *Secretary*.

129 STATE OF CALIFORNIA,
County of San Francisco, ss:

The plea of the defendant, the California and Oregon Land Company, was taken this 17 day of October, 1889, before me, under the common seal of the said corporation, as by its said seal thereto attached appears.

[SEAL.] J. D. MONCKTON,
Deputy Clerk & Commissioner U. S. Circuit Court,
Northern District of California.

DISTRICT OF OREGON, *ss:*

I, C. B. Bellinger, hereby certify that I am one of the solicitors for the defendant, the California and Oregon Land Company, in the foregoing entitled suit, and that in my opinion the foregoing pleas are well founded in point of law.

C. B. BELLINGER.

STATE OF CALIFORNIA,
County of San Francisco, ss:

I, E. B. Pond, being first duly sworn, do depose and say that I am the president of the California and Oregon Land Company, defendant in the above suit; that the foregoing pleas are true in point of fact, and that the same are not interposed for delay.

E. B. POND.

Subscribed and sworn to before me this 17th day of October, 1889.
[SEAL.] J. D. MONCKTON,
Deputy Clerk and Commissioner U. S. Circuit Court,
Northern District of California.

(Endorsed:) Filed Oct. 24, 1889. R. H. Lamson, clerk.

130 And afterwards, to wit, on the 24th day of October, 1899, there was duly filed in said court an answer of defendant, California & Oregon Land Co., in words and figures as follows, to wit:

131 In the circuit court of the United States for the district of Oregon.

THE UNITED STATES, PLAINTIFF,
vs.
THE OREGON CENTRAL MILITARY ROAD COMPANY, B. J. Pengra, C. E. Pengra, G. W. Colby, John Boggs, N. D. Rideout, W. H. Parks, R. F. Parks, Edgar Mills, C. E. Pond, Nicholas Lunning, W. C. Belcher, F. B. Simpson, J. W. Peck, Isaac Allen, B. F. Baker, M. P. Jones, D. H. Holbrook, Isaac Lohman, A. D. Breed, and The California and Oregon Land Company, defendants.

To the honorable the judges of the circuit court of the United States for the district of Oregon:

The answer of the California and Oregon Land Company to the bill of complaint of the United States, complainant, accompanying the pleas of this defendant and fortifying the same, and not waiving the said pleas.

This defendant now, and at all times hereafter, saving to itself all and all manner of exceptions or otherwise that may or can be taken to the many errors, uncertainties, and imperfections in the said plaintiff's bill contained, for answer thereto or to so much thereof as this defendant is advised it is necessary or material for it to make answer to, answering says:

In answer to the first paragraph of the said bill, this defendant admits that all the allegations therein contained are true.

132 In answer to the second paragraph of the said bill, this defendant admits that all the allegations therein contained are true.

In answer to the third paragraph of the said bill, this defendant admits that all the allegations therein contained are true.

In answer to the fourth paragraph of the said bill, this defendant admits that all the allegations therein contained are true.

In answer to the fifth paragraph of the said bill, this defendant admits

that the governor of Oregon, on the 27th day of July, 1866, made and issued the certificate set forth in said paragraph; but it says it has no knowledge or information concerning the other matters alleged and contained in said paragraph, but it believes that neither the officers, stockholders, or agents of the Oregon Central Military Road Company, nor any one of them, nor any other persons or person, acting in the interest of said company, or of any such officers, stockholders, or agents, or of either of them, on the said 27th day of July, 1866, or at any other time, falsely or fraudulently represented to Addison C. Gibbs, then governor of Oregon, or to any other person, that said road had been constructed for fifty miles, or for any distance, from Eugene City eastward, or from any other point or in any direction, as required by law, nor that they, the said officers, stockholders, agents, or representatives, or other persons, or any one or more of them, then, or at any time, knew that any such representations were false, or that said road had not in any respect been constructed according
to law, nor that they, or any of them, made said alleged false and
133 fraudulent representations, or any representations, or so did for the
purpose of procuring the issuance of such certificate, or for any purpose.

And this defendant believes that no such false or fraudulent representations were ever made by any of the said officers, stockholders, agents, or representatives of said company, or by any persons or person in its behalf, and that no representations of any kind were made by any one on behalf of said company for the purpose of procuring the issuing of said certificate by the governor.

And this defendant denies that said certificate was issued through any false or fraudulent representations by the officers, stockholders, agents, or representatives of said company, or of any of them, or of any person in its behalf, as alleged in said fifth paragraph of said bill of complaint.

In answer to paragraph six of said bill this defendant denies the allegations therein contained, and it denies that said Oregon Central Military Road Company, or that its officers, agents, or representatives, or that any one in its behalf, fraudulently or otherwise, pointed out to said governor any county road or led him to believe that any county road was owned or had been constructed by said company, and it says that the said Oregon Central Military Road Company had on and prior to the 27th day of July, 1866, constructed the fifty miles of road mentioned in the said certificate of the governor of Oregon, in all respects according to the requirements of the said act of Congress, which fact Addison C. Gibbs, then governor of Oregon, ascertained and knew from an examination of the same by him
made, and by proof thereof to his satisfaction.

134 In answer to the seventh paragraph of said bill of complaint, this
defendant admits that the governor of Oregon, on the 26th day of November, 1867, made and issued the certificate set forth in said paragraph; but it says it has no knowledge or information concerning the other matters alleged and contained in said paragraph, but it believes that neither the officers, stockholders, or agents of the Oregon Central Military Road Company, nor any one of them, nor any other persons or person acting in the interest of said company, or of any such officers, stockholders, or agents, or of either of them, on the said 26th day of November, 1867, or at any other time, falsely or fraudulently represented to George L. Woods, then

governor of Oregon, or to any other person, that said road had been constructed forty-two and one-half miles, or for any distance, from Eugene City eastward, or from any other point or in any direction, as required by law, nor that they, the said officers, stockholders, agents, or representatives, or other person, or any one of them, then or at any time knew that any such representations were false, or that said road had not in any respect been constructed according to law, nor that they or any of them made said alleged false and fraudulent representations, or so did for the purpose of procuring the issuance of such certificate.

And this defendant believes that no such false or fraudulent representations were ever made by any of the said officers, stockholders, agents, or representatives of said company, or by any persons or person in its behalf.

And this defendant denies that said certificate was issued through any
false or fraudulent representations by the officers, stockholders,
135 agents, or representatives of said company, or of either of them,
or of any person in its or their behalf.

In answer to the eighth paragraph of said bill of complaint, this defendant denies the allegations therein contained, and it says that the Oregon Central Military Road Company had on November 26th, 1867, constructed forty-two and one-half miles of road in all respects as required by said act of Congress, which fact the said George L. Woods, then governor of Oregon, then and there well knew from an examination and inspection by him made and from proof thereof to his satisfaction.

In answer to paragraph nine of said bill of complaint, this defendant denies that said certificate issued as aforesaid by the governor on November 26th, 1867, was procured by the said road company by or through any false or fraudulent representations by the officers, stockholders, agents, or representatives thereof, or of any of them, or of any person or persons, and it believes that no representations were at any time made by any person or persons in behalf of said company, or otherwise, in order to enable it falsely or fraudulently to obtain possession or control of the lands, or of any of them, lying within the limits of said grant, or that the acceptance of said road by the governor was a fraud upon the United States. On the contrary, this defendant says that said road was constructed in all respects as required by law, and was fairly and in good faith accepted by the governor of the State of Oregon.

In answer to the tenth paragraph of said bill of complaint, this defendant admits that the governor of Oregon on the 12th day of January, 1870,
made and issued the certificate in said paragraph set forth, and it says it
has no knowledge or information concerning the other matters in
136 said paragraph alleged, but it believes that neither the officers, stock-
holders, or agents of the Oregon Central Military Road Company,
nor any one of them, nor any other person acting in his or their interest, or in the interest of said company, on the said 12th day of January, 1870, or at any other time, falsely or fraudulently represented to George L. Woods, then governor of Oregon, or to any other person, that said road had been constructed as required by law or presented a map falsely showing the same, or the route thereof, nor that they, the said officers, stockholders, agents, or representatives, or any one of them, or other person, then or at any time knew that any such representations were false, or that said road had not been constructed in any respect as required by law, nor

that they or any of them made said alleged false and fraudulent representations, or so did for the purpose of procuring the issuance of such certificate. And this defendant believes that no such false or fraudulent representations were ever made by any of the said officers, stockholders, agents, or representatives of said company, or by any person in its or their behalf.

In answer to paragraph eleven of said bill of complaint, this defendant denies the allegations therein contained, and it says that the Oregon Central Military Road Company had on said January 12th, 1870, constructed a road in all respects as required by said act of Congress within the limits of said grant, from Eugene City to the eastern boundary of the State of Oregon, which fact the said George L. Woods, then governor of Oregon, well knew from an examination and inspection by him made and from proof thereof to his satisfaction.

In answer to paragraph twelve of said bill of complaint this de-
137 fendant denies that any of said certificates were procured by said
Military Road Company through any false or fraudulent representations by any of its officers, stockholders, agents, or any other person, and it believes that no such representations were at any time made or were so made to enable said company to falsely or fraudulently obtain possession or control of any of the lands of said grant, or that the acceptance of said road by the governor of Oregon was a fraud upon the United States. On the contrary, this defendant says that said road was constructed in all respects as required by said act of Congress, and was fairly and in good faith accepted by the governor of Oregon.

In answer to paragraph thirteen of said bill of complaint, this defendant says that the said road was graded, bridged, cleared, and constructed in whole through its entire length, so as to be a public highway, and so as to permit of its regular use as a wagon road, and so as to permit the transportation of property, troops, and mails of the United States over them.

In answer to paragraph fourteen of said bill of complaint, this defendant says that in the construction of the said road by the said Oregon Central Military Road Company, there was expended by that company about $130,000.00, and that the lands granted to said company were disposed of by it to re-imburse it for such expenditure.

In answer to paragraph fifteen of said bill of complaint, this defendant says that the lands granted by Congress were disposed of by the State to the said Military Road Company for the purposes expressed in said act of Congress, and have been applied to re-imburse said company for the expenditure made by it in the construction of said road.

138 In answer to paragraph sixteen of said bill of complaint, this
defendant says the statements therein contained are true.

In answer to paragraph seventeen of said bill of complaint, this defendant says that it is true that the Commissioner of the General Land Office and the Secretary of the Interior did on the several dates in said paragraph mentioned execute and deliver to the State of Oregon, for the benefit of said road, certified lists of land as in said paragraph alleged, and it believes the number of acres so certified to be correctly stated in the exhibits attached to the bill of complaint. But this defendant denies that said Commissioner or said Secretary was deceived, misled, or imposed upon by any false or fraudulent certificates, or was otherwise deceived, misled, or imposed upon in the execution and delivery of the said certified lists of land to the State of Oregon, and this defendant says that said certificates were so issued and delivered properly and fairly. And this defendant admits that the President of the United States did, as alleged in said paragraph, issue to the Oregon Central Military Road Company patent or patents for the number of acres therein mentioned; but it denies that he was deceived, misled, or imposed upon in so doing by any false or fraudulent certificates or otherwise, and it says that said patents were properly and fairly issued.

In answer to paragraph eighteen of said bill of complaint, this defendant admits the execution and delivery of the several conveyances and transfers therein mentioned, and it says that said grant and all rights and interests thereunder have passed by such conveyances and are now held by and vested in the defendant, the California and Oregon Land
139 Company, except as to about one thousand acres heretofore sold and conveyed by said company.

In answer to paragraph nineteen of said bill of complaint this defendant admits the matters therein stated to be true.

In answer to paragraph twenty of said bill of complaint this defendant says it believes that the maps or plats referred to in the certificate hereinbefore mentioned show the line of said road, the aggregate amount of land included in said grant, the number of acres which have been in effect patented, and the number of acres for which said company claims the right to have patents issue as stated in said paragraph, but denies that the claim of said company to have of right a patent issue for the lands so claimed is questionable, and it says that it has good right in equity to such patent.

In answer to paragraph twenty-one of said bill of complaint this defendant says that neither of the defendants nor any of its officers, stockholders, or agents, at the time of the execution and delivery of the said deeds, or at the time of the execution of any of such deeds, or at the time of the accruing of any of their interests in said land, or at any time, had any knowledge that the road provided for in said act of Congress had not been constructed as required by said act, or so as to be in every sense a public highway, or so that it could be used by the United States, or by any of the citizens or residents thereof as a public highway, or so that the United States could transport its property, troops, or mails over the same, and it says that neither of them had at any of such times, or at any time, any knowledge that no grades had been established
140 or constructed upon any part of said road, or that no clearing had been done on any part thereof, or that no bridge or bridges had been built or ferries established over any stream on the line thereof, or that no cuts or turnouts had been constructed at every proper place on said line of road; that neither of them had at any time any knowledge that said road was not begun and completed within five years from the date of the passage of said act of Congress, or that it had never been begun or constructed. That neither of them at any time knew that any of the statements made in any of the said certificates of the said governor of Oregon were false, or that either of said governors did not examine the road and every part thereof referred to in such certificates, or that either of said certificates had been procured by false or fraudulent representations, or that either of said patents were procured upon any false certificates; on the contrary, this defendant and its several stockholders believe, and so believed at the tim

it acquired said lands, that said road had in all respects been constructed within the time and in the manner required by the act of Congress, and that said certificates were in all respects true.

And this defendant further answering the matters in said bill of complaint alleged says: That on about the 15th day of May, 1874, the defendants, C. W. Colby, John Boggs, N. D. Rideout, W. H. Parks, R. F. Parks, Edgar Mills, E. B. Pond, Nicholas Lenning, W. C. Belcher, F. B. Simpson, J. M. Peck, Isaac Allen, B. F. Baker, M. P. Jones, and Isaac Lohman, then residents of the State of California, placing confidence in the truth of the hereinbefore mentioned certificates of the governor of 141 Oregon that the said road had been duly and seasonably constructed and completed in accordance with the terms of the said granting acts, and also in the said several certificates of the Commissioner of the General Land Office and Secretary of the Interior, did purchase in good faith and for a valuable consideration, to wit, for the sum of $200,000, from the defendants, B. J. and C. E. Pengra, who had succeeded to the ownership of the said grant of lands, through the act of the legislature of Oregon, and the conveyances, assignments, and transfers of said Oregon Central Military Road Company, as stated in the bill of complaint herein.

And this defendant avers that said sum of $200,000 was paid by said defendants in money, truly and bona fide, and without notice previous thereto or to the delivery of the conveyances thereof of any of the pretended fraudulent representations or acts in the bill of complaint set forth, and without any reason to believe or suspect that there had been any fraudulent act or misrepresentation or failure of duty in the examination or certifying the completion of said road or of any part thereof, or that said road had not been wholly, seasonably, and properly completed in accordance with the requirements of said granting acts.

And this defendant says that said purchasers were the promoters, organizers, and original stock subscribers and holders of the defendant, the California and Oregon Land Company; that said company is duly incorporated under the laws of the State of California for the purpose of taking said land grant, and as a convenient means of managing the property and interests of the said several purchasers in said land grant, and to this end 142 said several purchasers did, on March 3rd, 1871, convey to said company their several interests in said grant in consideration of the interest and stock in the said corporation severally held by them; that at the time of the said transfer and conveyance to said corporation neither the said company nor any of its officers or agents or stockholders had any notice or reason to believe or suspect that there had been any fraud or misrepresentation or failure of duty in the examination or certifying aforesaid, but the transfer to and the taking by said company was had and done really, bona fide, and upon the confidence placed by them and each of them in the truth of the said certificates.

That so confiding and relying, and without notice or reason to believe or suspect any of the alleged fraudulent acts or misrepresentations in the bill of complaint charged, the said promoters and the said land company have really and bona fide paid in the care and expense attending said lands the sum of $87,775.10, and in addition thereto have paid in taxes, levied under the laws of Oregon, the sum of $39,362.12.

to the State of Oregon, and this defendant says that said certificates were so issued and delivered properly and fairly. And this defendant admits that the President of the United States did, as alleged in said paragraph, issue to the Oregon Central Military Road Company patent or patents for the number of acres therein mentioned; but it denies that he was deceived, misled, or imposed upon in so doing by any false or fraudulent certificates or otherwise, and it says that said patents were properly and fairly issued.

In answer to paragraph eighteen of said bill of complaint, this defendant admits the execution and delivery of the several conveyances and transfers therein mentioned, and it says that said grant and all rights and interests thereunder have passed by such conveyances and are now held by and vested in the defendant, the California and Oregon Land
139 Company, except as to about one thousand acres heretofore sold and conveyed by said company.

In answer to paragraph nineteen of said bill of complaint this defendant admits the matters therein stated to be true.

In answer to paragraph twenty of said bill of complaint this defendant says it believes that the maps or plats referred to in the certificate hereinbefore mentioned show the line of said road, the aggregate amount of land included in said grant, the number of acres which have been in effect patented, and the number of acres for which said company claims the right to have patents issue as stated in said paragraph, but denies that the claim of said company to have of right a patent issue for the lands so claimed is questionable, and it says that it has good right in equity to such patent.

In answer to paragraph twenty-one of said bill of complaint this defendant says that neither of the defendants nor any of its officers, stockholders, or agents, at the time of the execution and delivery of the said deeds, or at the time of the execution of any of such deeds, or at the time of the accruing of any of their interests in said land, or at any time, had any knowledge that the road provided for in said act of Congress had not been constructed as required by said act, or so as to be in every sense a public highway, or so that it could be used by the United States, or by any of the citizens or residents thereof as a public highway, or so that the United States could transport its property, troops, or mails over the same, and it says that neither of them had at any of such times, or at any time, any knowledge that no grades had been established
140 or constructed upon any part of said road, or that no clearing had been done on any part thereof, or that no bridge or bridges had been built or ferries established over any stream on the line thereof; or that no cuts or turnouts had been constructed at every proper place on said line of road; that neither of them had at any time any knowledge that said road was not begun and completed within five years from the date of the passage of said act of Congress, or that it had never been begun or constructed. That neither of them at any time knew that any of the statements made in any of the said certificates of the said governor of Oregon were false, or that either of said governors did not examine the road and every part thereof referred to in such certificates, or that either of said certificates had been procured by false or fraudulent representations, or that either of said patents were procured upon any false certificates; on the contrary, this defendant and its several stockholders believe, and so believed at the time

it acquired said lands, that said road had in all respects been constructed within the time and in the manner required by the act of Congress, and that said certificates were in all respects true.

And this defendant further answering the matters in said bill of complaint alleged says: That on about the 15th day of May, 1874, the defendants, C. W. Colby, John Boggs, N. D. Rideout, W. H. Parks, R. F. Parks, Edgar Mills, E. B. Pond, Nicholas Lenning, W. C. Belcher, F. B. Simpson, J. M. Peck, Isaac Allen, B. F. Baker, M. P. Jones, and Isaac Lohman, then residents of the State of California, placing confidence in the truth of the hereinbefore mentioned certificates of the governor of
141 Oregon that the said road had been duly and seasonably constructed
and completed in accordance with the terms of the said granting acts, and also in the said several certificates of the Commissioner of the General Land Office and Secretary of the Interior, did purchase in good faith and for a valuable consideration, to wit, for the sum of $200,000, from the defendants, B. J. and C. E. Pengra, who had succeeded to the ownership of the said grant of lands, through the act of the legislature of Oregon, and the conveyances, assignments, and transfers of said Oregon Central Military Road Company, as stated in the bill of complaint herein.

And this defendant avers that said sum of $200,000 was paid by said defendants in money, truly and bona fide, and without notice previous thereto or to the delivery of the conveyances thereof of any of the pretended fraudulent representations or acts in the bill of complaint set forth, and without any reason to believe or suspect that there had been any fraudulent act or misrepresentation or failure of duty in the examination or certifying the completion of said road or of any part thereof, or that said road had not been wholly, seasonably, and properly completed in accordance with the requirements of said granting acts.

And this defendant says that said purchasers were the promoters, organizers, and original stock subscribers and holders of the defendant, the California and Oregon Land Company; that said company is duly incorporated under the laws of the State of California for the purpose of taking said land grant, and as a convenient means of managing the property and interests of the said several purchasers in said land grant, and to this end
142 said several purchasers did, on March 3rd, 1871, convey to said
company their several interests in said grant in consideration of the interest and stock in the said corporation severally held by them; that at the time of the said transfer and conveyance to said corporation neither the said company nor any of its officers or agents or stockholders had any notice or reason to believe or suspect that there had been any fraud or misrepresentation or failure of duty in the examination or certifying aforesaid, but the transfer to and the taking by said company was had and done really, bona fide, and upon the confidence placed by them and each of them in the truth of the said certificates.

That so confiding and relying, and without notice or reason to believe or suspect any of the alleged fraudulent acts or misrepresentations in the bill of complaint charged, the said promoters and the said land company have really and bona fide paid in the care and expense attending said lands the sum of $87,775.10, and in addition thereto have paid in taxes, levied under the laws of Oregon, the sum of $39,362.12.

That there has not been received by said company or by its stockholders, on account of said lands, to exceed the sum of $14,504.64, which sum has been derived from rents and sales thereof.

That since the conveyance of said grant and lands to said California and Oregon Land Company there have been from time to time sales and transfers of the stock of said company to others than its original stockholders, who are now the owners and holders of such stock, and so were at the commencement of this suit. That such purchases have been made by such holders in the confidence reposed by them in the truth of the said 143 certificates, and in reliance upon the said hereinbefore-mentioned listing of lands and upon the said act of Congress approved June 18th, 1874, and cited in the 16th paragraph of the bill of complaint herein; that various sums per share up to $20 per share were really and bona fide paid by such purch'ers for such stock without notice by them or reason to believe or suspect any of the alleged fraudulent acts or misrepresentations in the said bill charged; that said company's capital stock consists of twenty thousand shares, which is and at the beginning of this suit was held by twenty-five stockholders, of whom only eight were originally stockholders in said company or are defendants in this suit.

And this defendant denies all and all manner of unlawful combination and confederacy wherewith it is by the said bill charged without this, that there is any other matter, cause, or thing in the said complainant's said bill of complaint contained material or necessary for this defendant to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed, and avoided, or denied, is true to the knowledge or belief of this defendant; all which matters and things this defendant is ready and willing to aver, maintain, and prove, as this honorable court shall direct, and humbly prays to be hence dismissed with its reasonable costs and charges in this behalf most wrongfully sustained.

DOLPH, BELLINGER, MALLORY & SIMON,
Solicitors for the Deft., the Cal. & Oregon Land Company.
[CORPORATE SEAL.] CALIFORNIA AND OREGON LAND COMPANY.
By E. B. POND, *President,*
and ABRAHAM HALSEY, *Secretary.*

144 STATE OF CALIFORNIA,
County of San Francisco, ss:

The answer of the defendant, The California and Oregon Land Company, was taken this 17 day of October, 1889, before me under the common seal of the said corporation, as by its said seal affixed appears.

[SEAL.] J. D. MONCKTON,
Deputy Clerk & Commissioner U. S. Circuit Court,
Northern District of California.

STATE OF CALIFORNIA,
County of San Francisco, ss:

On this 17 day of October, 1889, personally appeared E. B. Pond, president of the defendant, The California and Oregon Land Company, and made oath that he is the president of said company and is familiar with its business affairs; that he has heard the foregoing answer read and knows the contents thereof, and that the matters and things set forth therein so far as it relates to the acts of the said defendant are true, and so far as it relates to the acts of others, he believes the same to be true.

E. B. POND.

Subscribed and sworn to before me this 17th day of October 1889.

[SEAL.] J. D. MONCKTON,
Deputy Clerk & Commissioner U. S. Circuit Court,
Northern District of California.

(Endorsed:) Filed Oct. 24, 1889. R. H. Lamson, clerk.

145 And afterwards, to wit, on Tuesday, the 18th day of February, 1890, the same being the 87th judicial day of the regular October term of said court; present, the honorable George M. Sabin, United States district judge, of Nevada, presiding, the following proceedings were had in said case, to wit:

146 In the circuit court of the United States for the ninth judicial circuit, district of Oregon.

THE UNITED STATES
vs.
THE OREGON CENTRAL MILITARY WAGON Road Company et al.
} No. 1632.

FEBRUARY 18TH, 1890.

This cause was heard upon the pleas of the defendants filed to the bill of complaint herein, and was argued by Mr. Lewis L. McArthur, United States attorney, and by Mr. Charles B. Bellinger and Mr. Rufus Mallory, of counsel for the defendants. On consideration whereof, it is now here ordered, adjudged, and decreed that said pleas be and the same are hereby sustained, and that said bill of complaint be and the same is hereby dismissed.

GEO. M. SABIN, *Judge.*

(Endorsed:) Filed Feby. 18, 1890. R. H. Lamson, clerk.

147 And afterwards, to wit, on the 18th day of February, 1890, there was duly filed in said court an opinion by the court in words and figures as follows, to wit:

148 In the circuit court of the United States, ninth judicial circuit, district of Oregon.

UNITED STATES
vs.
THE OREGON CENTRAL MILITARY ROAD Company.

OPINION OF THE COURT.

TUESDAY, *February* 18, 1890.

This case, in nearly all respects, is similar to that just decided—United States vs. The Dalles Military Wagon Road Company. The principal difference between the cases consists in the fact that in this case the certificates of the governor of completion are made on the completion of each section of fifty miles, and the act authorized the sale of thirty sections of the land before any work was done, and of thirty more upon the certificate of the governor of the completion of each ten miles of the road till the whole should be completed. The first certificate that fifty miles had been completed was made by Governor Gibbs, and the subsequent certificates by Governor Woods, who made the certificates in the other case. So, also, in this case, the governor is not charged with acting fraudulently in issuing the certificates, as he was in the other. If this case, as is contended on this account, is brought within the decision of the U. S. vs. Flint, U. S. vs. Throckmorton, and U. S. vs. Carpentier, 4 Sawyer, 42, and the same cases affirmed on appeal, 98 U. S., 68, it stands in a stronger position than the other, for in that view, since the officer to determine the question was no participant in the fraud, his decision is conclusive, and unassailable even in equity. However the rule may be as applicable to this case, the pleas must be held sufficient and the bill dismissed for the reasons stated in the case of the United States vs. The Dalles Military Wagon Road Company, and it is so ordered.

SAWYER, Circuit Judge.

(Endorsed:) Filed Feb'y 18, 1890. R. H. Lamson, clerk.

149 And afterwards, to wit, on Friday, the 21st day of February, 1890, the same being the 90th judicial day of the regular October term of said court, present, the Honorable George M. Sabin, United States district judge, of Nevada, presiding, the following proceedings were had in said case, to wit:

150 In the circuit court of the United States for the ninth judicial circuit, district of Oregon.

THE UNITED STATES
vs.
THE OREGON CENTRAL MILITARY Wagon Road Company et al.
} No. 1632.

FEBRUARY 21, 1890.

Now, at this day, on motion of Mr. Franklin P. Mays, United States attorney, it is ordered that an appeal in this cause to the Supreme Court of the United States be, and the same is hereby, allowed.

151 UNITED STATES OF AMERICA,
District of Oregon, ss:

I, R. H. Lamson, clerk of the circuit court of the United States for the district of Oregon, do hereby certify that the foregoing pages, numbered 1 to 150, to be a true and complete transcript of the record and proceedings in cause No. 1632, of The United States, plaintiff, against The Oregon Central Military Road Company and B. J. Pengra et al., defendants, as fully as the same appears of record and on file in said cause in my office and in my custody.

In testimony whereof I have hereunto set my hand and affixed the seal of said circuit court, at Portland, in said district, this 6th day of June, A. D. 1890.

[SEAL.]

R. H. LAMSON,
Clerk of said Court.
By R. B. LAMSON,
Deputy Clerk.

(Indorsement on cover:) No. 1219. The United States, appellant, vs. The Oregon Central Military Road Company, B. J. Pengra, C. E. Pengra, G. W. Colby, et al. Oregon, C. C. U. S. Filed July 14, 1890. Supreme Court U. S., clerk's office. Received Jul. 14, 1890.